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March 2, 2023

TO: Commission Outcomes Committee

FROM: Lynn Fallin
Chairperson, Commission Outcomes Committee

AGENDA ITEM: Update on State Public Charter School Commission ("Commission") work plan to address findings in 2022 Board of Education performance evaluation of the Commission

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I. EXECUTIVE SUMMARY

- The Board of Education ("Board") created an ad hoc committee charged with monitoring the progress of the State Public Charter School Commission ("Commission") in developing continuous improvement plans required to comply with the outcomes of the Board's performance evaluation of the Commission.

- The committee asked for a work plan approved by the Commission to provide an understanding of what performance evaluation findings the Commission needs to develop continuous improvement plans for and when it can develop such plans. The Commission-approved work plan lacks a timeline and rationales for the opportunities for improvement it is declining to address.

- At the committee's next meeting, the Commission is to present continuous improvement plans for every opportunity for improvement it elected to address and every deficiency. The Commission also must provide written rationales for the declined opportunities for improvement.

II. BACKGROUND

Hawaii Revised Statutes Section 302D-11 requires the Board to be responsible for overseeing the performance and effectiveness of charter school authorizers. On May 14, 2021, then-Board Chairperson Catherine Payne initiated a performance evaluation of the Commission by sending a letter to the Commission notifying it of an upcoming performance evaluation in accordance with Hawaii Administrative Rules Section 8-515-11, which, in part, requires the Board to "conduct a performance evaluation of each authorizer no less than every five years." The Board had last completed a special review, which served as a performance evaluation, of the Commission on February 21, 2017.

On December 16, 2021, an evaluation team reported its findings and recommendations to the Board, including a draft performance evaluation report.[1] On January 20, 2022, the Board approved the evaluation team's recommendations, adopted and issued the performance evaluation report ("Performance Evaluation Report"), and required the Commission to comply with the outcomes described in the Performance Evaluation Report. Those outcomes require the Commission to:

1. Develop continuous improvement plans to address every finding of deficiency contained in the Performance Evaluation Report and consider the development of continuous improvement plans to address the other opportunities for improvement described in the Performance Evaluation Report;
2. Report periodically, through a mechanism determined by the Board, on the Commission's development of the continuous improvement plans until the Board determines that the Commission has developed all of the required continuous improvement plans; and
3. Include in its annual reports to the Board and Legislature a summary of any actions that the Commission took during the year to address the findings in this report through implementation of the Commission's continuous improvement plans.

The evaluation team found that the most appropriate mechanism for the Board to monitor the reporting from the Commission on its progress with developing continuous improvement plans was through an ad hoc

[1] The evaluation team's report is available here: https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM_20211216_Report%20on%20Evaluation%20Team%20tasked%20with%20performance%20evaluation%20of%20Commission.pdf.

committee. Therefore, the Board created an ad hoc committee ("Commission Outcomes Committee" or "Committee") charged with monitoring the progress of the Commission in developing the required continuous improvement plans, making a recommendation to the Board when the Commission completes the development of these plans, and existing to carry out this charge until the Board determines that the Commission completed the development of the plans. The Board originally appointed me as chairperson, Board Member Kaimana Barcarse as vice chairperson, and Board Members Kili Namauʻu, Payne, and Bruce Voss as members of the Commission Outcomes Committee.[2] Ms. Payne's term on the Board ended on June 30, 2022. On July 14, 2022, the Board added Board Member Lauren Moriarty to the Commission Outcomes Committee.[3]

At the Committee's first meeting on October 6, 2022, Commission Chairperson Cathy Ikeda presented the work plan attached as **Exhibit A** ("Original Work Plan") using a form template I provided.[4] The Committee asked Commission Chairperson Ikeda to present her work plan to the full Commission for review and approval, and once approved, present the approved work plan to the Committee. The Committee also came to consensus on the elements that each continuous improvement plan should contain and stated an expectation that the Commission's board should review and approve any continuous improvement plans before presenting them to the Committee.[5]

On January 27, 2023, the Commission sent Committee members the memorandum attached as **Exhibit B**, which includes an attachment of a revised work plan template form ("Revised Work Plan"). However, the Revised Work Plan does not include any projected dates for when continuous improvement plans for these findings would be ready to present to the Committee. Further, the memorandum does not contain rationales for each opportunity for improvement finding the Commission has declined to

[2] See the minutes of the Board's January 20, 2022 general business meeting, available here: https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/ebb43af14ca5cdb30a2565cb006622a8/835d4343b248b6170a2587e600766528?OpenDocument.
[3] See the minutes of the Board's July 14, 2022 general business meeting, available here: https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/ebb43af14ca5cdb30a2565cb006622a8/1f7664f93d0a70510a25889800749bbe?OpenDocument.
[4] See Exhibit B of my memorandum dated October 6, 2022, available here: https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/COC_20221006_Presentation%20on%20Commission%20work%20plan.pdf.
[5] See the minutes of the Committee's October 6, 2022 meeting, available here: https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/7d59b00aff8d3cf50a2565cb00663e82/00ebf05bce25d64e0a2588ed0001eac9?OpenDocument.

address, which I stated should be provided in my October 6, 2022, memorandum.[6]

On February 15, 2023, I emailed Commission Chairperson Ikeda, copying Interim Executive Director Yvonne Lau, a response to the Commission's memorandum requesting clarification on the purpose of the memorandum. In my response, I stated that the memorandum appeared to be an update on the progress of the work plan and a precursor to the Commission's meeting materials it would submit for the Committee's meeting on March 2, 2023. I went on to explain:

> "If this memo is meant to preview the Commission's meeting material submission, I would like to please see the following additions to the actual submission:
>
> 1) A completed timeline form. The form attached to your letter/memo leaves the 'projected date read' column empty. We need to know the dates of when the Commission will have continuous improvement plans addressing each finding ready to present to the [Committee]. Note that each continuous improvement plan must meet the criteria in my October 6, 2023 memo, so please keep this in mind when projecting the dates.
> 2) Rationales for each opportunity for improvement the Commission is declining to address. Currently, the memo only states, 'The Commission disagrees with the characterization of these issues.' We would like to see a concise written rationale for each of the declined opportunities for improvement explaining why the Commission is declining to address that specific finding.
>
> I have two goals for the March 2 meeting. First, I would like a clear timeline for the path forward for both the Commission and the [Committee]. Filling in the [work plan] timeline will be important for setting the next [Committee] meetings and what continuous improvement plans the Commission presents during those meetings. Second, I would like the [Committee] members to feel comfortable on moving on from the declined opportunities even if we disagree with the Commission's decision to decline to address

[6] See Footnote 4 for a link to my memorandum dated October 6, 2022.

them. This is why a concise rationale for each of the declined opportunities is important."

I did not receive a response to my email. On February 23, 2023, the Commission resubmitted its January 27, 2023, memorandum as materials for the Committee's March 2, 2023, meeting.

III. DISCUSSION

The work plan is the first step in setting a clear path forward to meet the expectations of the Board. The purpose of the work plan is to provide an understanding of what findings in the Performance Evaluation Report the Commission needs to develop continuous improvement plans for and when it can develop such plans. Because the Revised Work Plan lacks projected dates for when the necessary continuous improvement plans would be ready to present to the Committee, we can only assume the projected dates in the Original Work Plan are current. Therefore, because the Original Work Plan projected that a continuous improvement plan would be available to present to the Committee by February 2023, at the latest, for every single finding listed, we will expect the Commission to provide all the required continuous improvement plans at the Committee's next meeting, which will be in May or June 2023, for our review.

Consistent with the expectations the Committee has already established, the Commission must have its board review and approve any continuous improvement plans before presenting them to the Committee. Further, the Committee will consider a continuous improvement plan for any particular finding successfully developed only if it contains these following elements:

1. A sufficiently detailed timeline that includes:
    a. Steps intended to reach outcomes that remedy the finding for which the continuous improvement plan was designed;
    b. Projected completion dates of each step; and
    c. Who is responsible for executing each step;
2. Standards of success to assess the effectiveness of the outcomes in remedying the finding for which the continuous improvement plan was designed;
3. A description of how the Commission will use the standards of success to assess the outcomes;
4. Actions the Commission will take if the outcomes do not meet the defined standards of success; and
5. Any resources required to implement the plan.

If a continuous improvement plan does not contain all of these elements, the Committee will not consider it developed, and the Commission will need to revise that particular plan, have its board review and approve it, and present the revised plan to the Committee.

As to the rationales for each declined opportunity for improvement, the Committee will ask the Commission to explain the rationales orally at the Committee's March 2, 2023, meeting. Additionally, I expect the Commission to provide the rationales in writing to the Committee at its next meeting.

Exhibit A

Original Work Plan

Organizational Capacity and Infrastructure

Performance Measure A.1: Authorizer Mission Does the authorizer have a clear and compelling mission for charter school authorizing that aligns with, supports, and advances the intent of law and purpose of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**
Opportunity: The Commission can better advance the intent of Board Policy E-700 through its mission when it defines what "high quality" means for charter schools. The Commission should carefully review and incorporate the purposes of charter schools as described in Board Policy E-700 in the Commission's determination of "high quality."	☒ Yes ☐ No*	12/2022
Opportunity: While a strong majority of charter school leaders felt that the Commission practices its mission, another 25% of survey respondents somewhat disagreed or strongly disagreed. The Commission should consider developing a more robust system for external stakeholders to review and comment on the alignment of the Commission's mission and vision with the intent of the charter school law and Board Policy E-700.	☒ Yes ☐ No*	12/2022
Performance Measure A.2: Strategic Vision and Organizational Goals Does the authorizer have and evaluate its work against its comprehensive long-term strategic vision for charter school authorizing with clear organizational goals and timeframes for achievement that align with, support, and advance the intent of law and the purpose of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: It is not clear how some of the organizational goals align with the Commission's vision. While the organizational goals contained within the 2019-2023 Strategic Plan clearly align (PERF Attachment A-2, p. 17-18), the Commission did not provide evidence on how its other organizational goals (PERF Attachments A-3, A-4, A-5) are connected to its vision. These other organizational goals appear to be part of the Commission's work to revise its strategic plan, but it is not clear whether this is the case nor is it clear how these organizational goals align with a revised vision. Further, these other organizational goals do not have timeframes for achievement, and while most of the strategies attached to each goal have performance indicators (PERF Attachment A-4), the organizational goals themselves are not measurable. The organizational goals within the 2019-2023 Strategic Plan also are not clearly measurable.	Mandatory	10/2022

Deficiency: It is not clear whether the strategies outlined in the 2019-2023 Strategic Plan are appropriate long-term strategies to achieve the stated vision. While it seems possible for the portfolio, practice, and policy strategy approach to achieve the Commission's vision to "Authorize with ALOHA; actualize a learning organization and system; and amplify charter school portfolio and practices" (PERF Attachment A-2, p. 14-15), the document does not describe a clear enough alignment or explain how each of the specific strategies contributes to achieving the vision. The other organizational goals and strategies also do not explain how they contribute to achieving either the vision in the 2019-2023 Strategic Plan or a revised vision (PERF Attachments A-3, A-4, A-5).	Mandatory	10/2022
Deficiency: It is not clear whether the Commission evaluates its work against its vision. The Commission provided a "performance management cycle" document (PERF Attachment B-1), but there is no clear indication that this represents an evaluation process focused on aligning the Commission's work with its vision. Further, there is a lack of evidence that the Commission implements plans for improvement when falling short of its organizational goals nor is there clear documentation that the Commission accomplished its goals. The Commission provided hundreds of pages of "meeting agendas, submittals, workgroup meetings and Permitted Interaction Group work on the Commission's strategic plan implementation and revisions" as "evidence" of self-evaluation of its work against its vision and organizational goals (PERF, p. 6; PERF Attachment B-2), but the Commission did not explain what these documents represent and how they are relevant. A quick word search of three of the Commission's organizational goals (from PERF Attachment A-3) in these documents yielded no results, which suggests that these documents do not contain specific information about how the Commission evaluates its organizational goals or implements plans for improvement when falling short of them. The Commission also provided evidence of its work to revise its strategic plan (PERF Attachment C-1), but revising a strategic plan is not the same as implementing improvement plans.	Mandatory	10/2022
Opportunity: While the Commission appears to have recently changed its strategic plan, it should consider reopening the strategic planning process to ensure it addresses the findings in this report. The Commission should clarify whether the new strategic plan is a revision of the 2019-2023 Strategic Plan (with the same fundamental vision, values, and principles) or a brand new strategic plan with significant differences from the 2019-2023 Strategic Plan. The new strategic plan should be clear about how the charter school system will work together going forward, including detailed milestones, expectations, and timelines, much of what was missing from the 2019-2023 Strategic Plan. Given the history of the tensions between the Commission and the charter schools, reopening the strategic planning process and including external stakeholders would be a good operational next step that could lead to improved clarity and relations. This is a great opportunity for broadening and strengthening external review processes to build common understanding. Such a process could improve	☒ Yes ☐ No*	12/2022

internal and external alignment on roles, expectations, and performance in areas such as innovation and school autonomy that are part of national principles for quality authorizers while continuing to foster and support important areas unique to Hawaii.		
Opportunity: As communication and trust are foundational to implementation and working relationships between the Commission and the charter schools within its portfolio, the Commission should consider adding metrics to its revised strategic plan to measure progress in improving communication and trust, which are connected to the "Aloha Spirit" values described in the revised plan (PERF Attachment C-1, p. 23).	☒ Yes ☐ No*	12/2022
Opportunity: While the 2019-2023 Strategic Plan identifies "operating laboratories of innovation" as one of three strategic anchors (PERF Attachment A-2, p. 11), the Commission does not elaborate further on the role of innovation in the 2019-2023 Strategic Plan or in its revised strategic plan. This is a missed opportunity. Charter schools are supposed to "implement innovative educational practices," pursuant to Board Policy E-700, which envisions charter schools as laboratories of innovation to strengthen and add value to the public education system, resulting in improved student learning. The Commission should determine how much risk it can accept from charter schools, as innovators, particularly in the educational programmatic areas, and how risk-taking and innovation factor into performance monitoring, contract renewal, and defining a "high-quality charter school." Further, the Commission should determine a plan and actions for long-term research on the lessons learned from its entire portfolio in school innovation areas and effectiveness.	☒ Yes ☐ No*	12/2022
Opportunity: The Commission should reflect on whether its organizational goals are ambitious enough and perhaps even ask its stakeholders to weigh in on the ambitiousness of its goals.	☒ Yes ☐ No*	12/2022
Opportunity: The Commission should actively measure its organizational goals to help it determine whether it is achieving most goals within the stated timeframes. The Commission should keep its stakeholders abreast of its progress by including in its annual reports its performance in meeting the organizational goals stated in its strategic plan.	☒ Yes ☐ No*	12/2022

Performance Measure A.3: Structure of Operations To what degree does the authorizer operate with a clear structure of duties and responsibilities, including appropriate lines of authority and delegation of duties between decision-makers and staff, and sufficient resources to effectively oversee its portfolio of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**
Opportunity: The Commission is aware that it needs to revise its job descriptions and it planned to do it after the revision of its strategic plan. Regularly reviewed and updated job descriptions would ensure duties and responsibilities among all staff are clear.	☒ Yes ☐ No*	12/2022
Opportunity: It is not entirely clear who, aside from those on the Performance Team, are responsible for the essential authorizing duties of the Commission. The Commission identified most of its positions as having authorizing duties, explaining, "Nearly all Commission staff function in some way that provides the Commission's authorizing arm data that feeds into the overall performance of public charter schools in meeting the requirements of their public charter contracts" (PERF, p. 10). However, providing the data needed for authorizing is not the same as conducting authorizing responsibilities. For instance, the Department of Education (the "Department") provides the Commission with data it needs for authorizing, but the Department surely does not have authorizing responsibilities. When asked for more clarity, Commission representatives noted that it is difficult to separate those who do its authorizing functions from those who do not. By not being clear about who is responsible for the essential authorizing responsibilities (particularly with a lack of updated job descriptions), the Commission risks reducing the importance of the positions most responsible in delivering its core authorizing mission, which could result in not prioritizing resources for those positions and functions. Some of the lack of clarity appears to stem from a belief that the Commission is required to do more than authorizing. The Commission asserts that because Hawaii charter schools are state entities unlike charter schools in other parts of the nation, the Commission is "required" to function both as an authorizer and an "administrative state agency that provides fiscal and other state agency liaison functions to the public charter schools it authorizes" (PERF, p. 9). This assertion, however, is not entirely accurate because the only administrative fiscal and liaison functions required of the Commission are to "[a]ct as a point of contact between the department and a public charter school it authorizes" and be responsible for the receipt and distribution of state and federal funds, pursuant to HRS §302D-5(b). Other functions the Commission takes on beyond these requirements are by its own hand. The absence of other services and supports for charter schools, such as those the Department provides to its schools, is one of the justifications for the Commission taking on additional functions (PERF, p. 8), which is noble and laudable. However, the more responsibilities the Commission takes on	☒ Yes ☐ No*	12/2022

beyond its essential authorizing responsibilities, the fewer resources are available to support the authorizing needs of the Commission's portfolio due to mission creep. The 2017 NACSA Report had similar findings and even recommended that the Commission "[n]egotiate with the [Department] to transfer non-authorizing, administrative, and federal program duties back to the [Department] so the Commission can focus its staffing and resources on authorizing" (PERF Attachment C-2, p. 24). Through its annual reports to the Legislature, the Board has already expressed its desire to have a formal structure to provide centralized support to charter schools outside of the Commission. It is due time for the Legislature, Board, Commission, Department, and charter schools to explore how to make this happen, and the Board encourages the Commission to have a conversation about an approach that makes sense. In the meantime and to make a transition to this kind of structure more feasible, it is important for the Commission to be clear about the positions and resources it uses strictly on essential authorizing functions only. If positions have administrative or technical support responsibilities in addition to authorizing responsibilities, the Commission should be clear about the percent of time each position spends in each area of responsibility, although the Commission should strive to avoid comingling authorizing responsibilities with other responsibilities as much as possible. Additionally, it would be beneficial if the Commission could help identify any supports that charter schools need that the Commission cannot currently provide by law.		

Performance Measure A.4: Authorizer Leadership and Staff Expertise

To what degree does the authorizing staff have or have access to appropriate experience, expertise, and skills to sufficiently oversee the portfolio of charter schools?

Finding	**Plan to be developed?**	**Projected date ready**
Opportunity: The executive director position has been vacant for a long time. A long-term executive director is critical to implement the revised strategic plan, achieve the organizational goals, stabilize the organization, and build stronger relationships with schools. Further, even though the necessary skills appear to be readily accessible, this performance evaluation identifies areas where the authorizing staff have had trouble effectively applying their experience and expertise. The Commission needs strong leadership to tap into the aptitude the staff seemingly possess to draw out their skills and maximize the overall capacity of the Commission. The Commission needs to find and hire an executive director with this kind of leadership ability as soon as possible. The Commission should proceed with the recruitment of a new executive director immediately.	☒ Yes ☐ No*	12/2022

Opportunity: Commission representatives readily admit that the Commission staff need more expertise in the area of academics, especially in light of several vacancies. As academic performance oversight is central to an authorizer's role and responsibilities, the Commission should make bolstering capacity in this area a priority and act immediately to fill vacancies.	☒ Yes ☐ No*	12/2022
Performance Measure A.5: Capacity and Skill Development of Leadership and Staff To what degree does the authorizer ensure a commitment to quality authorizing and enable continual agency improvement through regular professional development of its authorizing leadership and staff that is aligned with its mission, vision, and organizational goals?		
Finding	**Plan to be developed?**	**Projected date ready**
Opportunity: Commission representatives explained that the Commission does not have a formalized process for determining who needs professional development, noting that the Commission needs to revise its job descriptions first based on its revised strategic plan. Once the Commission revises its job descriptions, it should develop a system for identifying and organizing professional development needs and opportunities with explicit links to the measurable outcomes in the revised strategic plan. Currently, the link to the Commission's strategic plan and alignment with the Commission's mission, vision, and organizational goals can only be assumed. The system should identify both individual capacity needs for each position as well as the overall authorizing needs of the Commission's portfolio and align professional development investments with those needs. Implementing annual reviews of each Commission staff member could help in identifying areas where staff need professional development in addition to areas of strengths.	☒ Yes ☐ No*	12/2022
Opportunity: It could be helpful to have governing board members and charter school directors attend some NACSA training sessions to strengthen the alignment between the Commission and the schools and to build a common ground of understanding of authorizer roles and responsibilities, best practices, and expectations.	☒ Yes ☐ No*	12/2022

Performance Measure A.6: Authorizing Operational Budget To what degree is the authorizer's actual resource allocation commensurate with its stated budget and responsibilities of authorizing the portfolio of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: There is no evidence that the Commission's resource allocations are adequate to fulfill its authorizing responsibilities and the needs and scale of its portfolio. It is not clear that the Commission has determined the costs of the authorizing needs of its portfolio, and its funding or staffing are not tied to the number of schools in its portfolio.	Mandatory	10/2022
Opportunity: As noted under Performance Measure A.3, the Board has already expressed its desire to have a formal structure to provide centralized support to charter schools outside of the Commission. To make a transition to this kind of structure more feasible, it is important for the Commission to be clear about the positions and resources it uses strictly on essential authorizing functions only. The Commission should keep track of the resources it uses for its essential authorizing responsibilities under HRS §302D-5(a) separately from resources used for administrative and technical support functions, including those duties under HRS §302D-5(b). Not only will this make a transition to a centralized support structure simpler, it will make it clear whether the Commission has enough dedicated resources to accomplish the work necessary for its core authorizing mission.	☒ Yes ☐ No*	12/2022
Opportunity: The Commission should more explicitly link the budget to the strategic plan and organizational goals. Performance metrics on organizational and budgetary effectiveness could help.	☒ Yes ☐ No*	12/2022
Opportunity: The Commission indicated that an issue it has with recruitment and retention of staff is its inability to compete with the higher salaries offered by other state agencies. Under HRS Chapter 89C, the Commission is obligated to make compensation adjustments for its employees "in consideration of the compensation and benefit packages provided for other employees in comparable agencies." The Commission should review the appropriateness of its salaries in conjunction with its job description updates and pursue additional resources for compensation adjustments as necessary. The Commission should tap the Department's Office of Talent Management to assist it, and like two other administratively attached agencies who already receive similar human resources support from the Department—the Executive Office on Early Learning and the Hawaii Teachers Standards Board—the Commission's positions and salaries would best align with those of the Department.	☒ Yes ☐ No*	12/2022

Performance Measure A.7: Self-Evaluation of Capacity, Infrastructure, and Practices To what degree does the authorizer regularly self-evaluate its internal ability (capacity, infrastructure, and practices) to oversee the portfolio of charter schools and develops continuous improvement plans to address findings of self-evaluation?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: While the Commission occasionally conducts self-evaluations, they are not regularly scheduled or executed. The Commission does not have a schedule or plan for conducting self-evaluations.	Mandatory	10/2022
Deficiency: The Commission does not design continuous improvement plans to address the findings resulting from self-evaluation. The Commission provided revisions to its strategic plan as evidence of a continuous improvement plan (PERF Attachment C-1), but these revisions occurred recently and are not a result of the evaluation NACSA conducted four years ago. Commission representatives explained that while the NACSA evaluation is still relevant to the revision of the strategic plan, the strategic plan changes are a result of challenges in implementing the 2019-2023 Strategic Plan, not a result of a self-evaluation. While the NACSA evaluation was one source of information that informed the strategic plan revisions (PERF Attachment B-2, p. 59), none of the planning documents indicated that the new strategic plan is meant to act as a continuous improvement plan designed to address the specific findings in the 2017 NACSA Report.	Mandatory	10/2022
Performance Measure A.8: Operational Conflicts of Interest To what degree does the authorizer implement a clear policy to address conflicts of interest in all decision-making processes concerning the portfolio of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**
Opportunity: The Commission's conflict of interest policy, processes, and procedures could more clearly avoid decisions and interventions that hold the Commission accountable for a school's performance. The Commission explained that its decisions and interventions "should be grounded in the evidence and data presented in the submittal, the presentation of the issue by the relevant parties, and the Commission's discussion on the issue prior to decision-making" (PERF, p. 21), which makes sense, but the conflict of interest policy, processes, and procedures do not state as much. Further, when considered with the charter contract provision that states that a Notice of Deficiency "may include prescriptive, specific action plans and conditions for the School" (PERF Attachment R-3, p. 47), it is possible to conceive a scenario where the Commission intervenes with a school's operations. The Commission could require a school to take specific actions, and if the school still fails to meet	☒ Yes ☐ No*	12/2022

expectations after taking the actions specified by the Commission, the school could pin the failure back on the Commission because it forced the school to take the action that resulted in the failed expectations. This possible scenario would make the Commission accountable for the school's performance rather than having the school solely accountable for its own performance. While Commission representatives emphasized that the intent of the contract provision is not for the Commission to get involved in internal operations of a school, neither the conflict of interest policy nor the charter contract make it clear that the Commission will not or cannot interfere with internal operations of schools. The Commission should consider amending the charter contract by removing the provision that allows the Commission to require "prescriptive, specific action plans" for schools and including a provision prohibiting the Commission from interfering with the internal operations of a school unless it is to "immediately address serious health and safety issues," pursuant to HRS §302D-17(e).		
Opportunity: While the Commission's practice is to have staff complete an online State Ethics Code training, the Commission should consider formally systemizing and planning regular conflicts of interest training for all staff, especially new staff.	☐xYes ☐ No*	12/2022
Performance Measure A.9: Compliance to Statutory Responsibilities and Board Policies To what degree does the authorizer comply with its statutory responsibilities, including authorizer reporting and the appropriate distribution of funds to its charter schools, and Board policies?		
Finding	**Plan to be developed?**	**Projected date ready**
Opportunity: While the Commission reports its progress in achieving priorities and goals in its annual reports, these priorities and goals are not contained within or explicitly attached to the Commission's strategic plan. As stated in Performance Measure A.2, the Commission should keep its stakeholders abreast of its progress by including in its annual reports its performance in meeting the organizational goals stated in its strategic plan. The use of operational metrics that align with the Commission's organizational goals would be helpful in communicating this.	☐xYes ☐ No*	12/2022
Opportunity: Recent annual reports contain longitudinal data, but they do not have any kind of comprehensive analyses explaining performance trends of the portfolio of schools. This kind of analysis could be particularly useful in the academic performance areas, especially if incorporating metrics related to Native Hawaiian language and culture-focused education.	☐xYes ☐ No*	12/2022

Application Process and Decision-Making

Performance Measure B.1: Application Process, Timeline, and Request for Proposals To what degree does the authorizer have a comprehensive and well-publicized application process that includes realistic timelines, fair and transparent procedures, and guidance that clearly describes each stage of the process? To what degree is the authorizer's request for proposals clear, comprehensive, and aligned to its mission, vision, and organizational goals?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: The vision publicized in the 2020 RFP appears to be an outdated strategic vision. It states, "The Commission's strategic vision for the chartering of these high-quality schools is that they not only provide excellent and diverse educational options for Hawaii's families but that they also contribute meaningfully to the continued improvement of Hawaii's public education system as a whole." (PERF Attachment M-1, p. 7) The 2019-2023 Strategic Plan states the same strategic vision for historical context only (PERF Attachment A-2, p. 5-6), and it establishes an entirely different strategic vision for the Commission later in the document (PERF Attachment A-2, p. 12-13). Therefore, while the 2020 RFP did publicize a vision, it did not publicize the vision applicable at the time of publication; thus, the relevancy of the publicized chartering priorities to the applicable strategic vision is questionable.	Mandatory	11/2022
Deficiency: It is questionable, at best, whether the Commission's 2020 application process allows sufficient time for each stage of the application process to be carried out with quality and integrity. The Commission touts that the 2017 NACSA Report found the Commission's application process to be strong with the highest rating of "excellent" (PERF, p. 25). However, because NACSA completed its evaluation in 2017, it reviewed an older version of the Commission's application process. The Commission's application process timeline has progressively shortened over the years, lasting approximately eight months in 2016-2017 from the submission of Intent to Apply Packets to the Commission's final decision before shortening to a four-month-long process in 2018 and a three-month-long process in 2020 (PERF, p. 27). The most notable changes include (1) reducing the time applicants have to submit an application from the time the RFP is publish from approximately four months in 2016-2017 to just six weeks in 2020 and (2) reducing the time the evaluation team has to review applications and draft recommendation reports from over three and a half months in 2016-2017 to just three weeks in 2020 (PERF Attachment M-1, p. 14-15; PERF Attachment M-3, p. 15). For comparison, the Board gave the Commission three months to provide the initial requested information the Board needed for this performance evaluation of the Commission, and the Commission still needed to request an extension. The information a charter applicant needs to provide is similarly complex and onerous to compile, and six weeks does not appear to be sufficient time to do	Mandatory	11/2022

so. Further, to conduct evaluations of such complex documents with quality and integrity and write recommendation reports based on those evaluations in just three weeks is simply not realistic, especially considering that the Commission could have needed to evaluate up to eight applications in 2020 if it did not suspend its process.		
Deficiency: While the procedures for the evaluation of completed applications are fair and transparent, the procedures at the Intent to Apply stage are not because, in practice, they did not inform applicants of all of their rights and responsibilities or promptly notify applicants of denial. In Board Appeal No. 20-01, *Lima No'eau Career Academy v. State Public Charter School Commission*, the Board concluded that the Commission's Intent to Apply Packet acts "as part of the charter application," deeming a charter application as incomplete is a *de facto* denial, and "the Commission must issue notifications of denial to all applicant governing boards whose Intent to Apply Packets the Commission denies (*de facto* or otherwise)" (Appeal No. 20-01, p. 14-15). The 2020 RFP states, "Late or incomplete [Intent to Apply Packet] submissions will be rejected," but it does not contain any other information on how the Commission informs applicants about an "incomplete" determination or about the rights of applicants, such as the ability to the appeal to the Board, after the Commission deems the Intent to Apply Packet incomplete (PERF Attachment M-1, p. 18).	Mandatory	11/2022
Deficiency: The 2020 RFP does not clearly explain how the application process is conducted at the Intent to Apply stage. The process allows applicants to propose other school models that might not address the Commission's stated priority needs and states, "Prospective applicants not proposing schools that would meet a Priority Need must describe and cite evidence of other significant, documented educational needs that their school would meet in their targeted community, which would be a noteworthy contribution to Hawaii's public education system. The Commission will assess these alternative needs at the 'Intent to Apply' stage before inviting a prospective applicant to submit a full application." (PERF Attachment M-1, p. 8) However, the 2020 RFP does not explain how the Commission will "assess these alternative needs" and only states, "Commission staff will determine whether the applicant meets the requirements in HRS §302D- 13(b) to submit a charter application. Applicants will be notified on their eligibility to proceed with submitting a charter application" (PERF Attachment M-1, p. 14).	Mandatory	11/2022
Deficiency: While the application process in the 2020 RFP clearly explains how most of the evaluation stage is conducted after applicants submit their full applications, it is not clear about the "Hawaii school experts who will evaluate the applicant's capacity" (PERF Attachment M-1, p. 17, 23), particularly who makes up that group and how they are selected, their relationship to the evaluation team, and their responsibilities in the evaluation process.	Mandatory	11/2022

Deficiency: The Intent to Apply Packet in the 2020 RFP does not articulate comprehensive application questions to elicit the information needed for the rigorous evaluation of applicants' plans. In Board Appeal No. 21-01, *Lima No'eau Career Academy v. State Public Charter School Commission*, the Board concluded, "[T]he Commission's priority needs requirement is ambiguous, particularly in how it applies to the Intent to Apply Packet. The fault of this ambiguity lies with the Commission" (Appeal No. 21-01, p. 11). In this case, the Commission denied an applicant because its Intent to Apply Packet "lacked information in addressing the priority needs and did not describe or cite evidence of other significant, documented educational needs that [the applicant] would meet in [its] targeted community, which would be a noteworthy contribution to Hawaii's public education system and the information provided was inconsistent" (Appeal No. 21-01, p. 6). As summarized in the Board's appeal decision, "The Intent to Apply Packet form appears simply to require a brief description as to which of the Commission's priority needs, as stated in the RFP, the applicant meets, if any. It does not require the applicant to describe how it will meet the selected priority needs, presumably because that is the intent of the full application. [The applicant's] Intent to Apply Packet briefly described two priority needs using language identical to the priority needs stated in the RFP" (Appeal No. 21-01, p. 11).	Mandatory	11/2022
Opportunity: The Commission should put forth a plan and timeline for reopening the current application cycle, which it has suspended for over a year and a half, as soon as possible as some applicants in limbo risk losing funding awards. The timeline should not be dependent upon the availability of state funding for "new programs" (which was the original rationale for the suspension) because (1) it takes a significant amount of time for an approved applicant to even be eligible to receive state funding as a full-fledged charter school and (2) new charter schools are not new budgetary programs for which the State needs to find funds, as the funding for a new charter school is just a piece of a per-pupil funding "pie" made up of charter school and Department program funds. The per-pupil calculation across this figurative budget pie stays the same, regardless of the number of Department and charter schools, unless the total number of students served by the public schools as a whole (Department and charter schools) changes or the whole funding pie itself changes, neither of which have anything to do with a new charter school.	☒ Yes ☐ No*	12/2022
Opportunity: In addition to the alignment to an outdated strategic vision, it is unclear how the priority needs stated in the 2020 RFP align with the Commission's organizational goals. The Commission should realign its entire approach to the solicitation and review of new charter school applications to its revised strategic plan and the attached organizational goals and ensure that alignment is explicitly clear in the RFP.	☒ Yes ☐ No*	12/2022
Opportunity: With the recent statutory changes to HRS §302D-13, the Commission will need to reexamine its application process to see if changes are necessary to comply with law.	☒ Yes ☐ No*	12/2022

Performance Measure B.2: Approval Criteria for Charter School Applications To what degree does the authorizer have clear and comprehensive approval criteria that align with law and allow it to rigorously evaluate new charter school proposals?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: The approval criteria in the 2020 RFP do not clearly allow for rigorous evaluation of new charter school proposals. Each of the last three versions of the Commission's RFP state, "Within each section and subsection [of the Application Requirements and Criteria], specific criteria define the expectations for a response that 'Meets the Standard'" (PERF Attachment M-1, p. 25; PERF Attachment M-2, p. 26; PERF Attachment M-3, p. 26). Each subsection of the Application Requirements and Criteria in the 2016-2017 and 2018 RFPs starts with "An application that meets the standard for approval will have the following elements" and are subsequently followed by detailed application requirements. These detailed application requirements contain subjective descriptors (such as "clear," "reasonable," and "effective") denoting a level of expected quality and allowing these requirements to simultaneously serve as the approval criteria. Many, if not most, of these subjective descriptors appear to be absent from the 2020 RFP's Application Requirements and Criteria. For example, the 2018 RFP states, "An application that meets the standard for approval will have . . . A clear description of realistic and legally sound procedures for hiring and dismissing school personnel, including procedures for conducting criminal history record checks" (PERF Attachment M-2, p. 50). The 2020 RFP revised this same requirement to state, "Outline the school's procedures for hiring and dismissing school personnel, including conducting criminal history record checks" (PERF Attachment M-1, p. 49). The 2018 version of this requirement makes it clear that the procedures for hiring and dismissing school personnel need to be "realistic and legally sound" and provide the evaluation team criteria on which to base a quality judgement. The 2020 version of this requirement does not allow for any judgement of the quality of the procedures and therefore does not serve as a clear approval criterion. The 2020 RFP's Application Requirements and Criteria are full of many more examples of this issue. While Commission representatives explained that this change was intended to make the approval criteria clearer, measurable, and easier for applicants, it may actually have the opposite effect.	Mandatory	11/2022
Deficiency: While there are distinct questions or requirements for applicants who are existing school operators of proposed conversion charter schools (PERF Attachment M-1, p. 41), proposing to contract with education service or management providers (PERF Attachment M-1, p. 55-58), or proposing to operate virtual charter schools (PERF Attachment M-1, p. 59-61), distinct approval criteria for such applicants are vague, at best, or completely missing, at worst, and the issue described in the paragraph above applies here as well.	Mandatory	11/2022

Deficiency: Other than a distinct requirement for applicants proposing conversion charter schools, the 2020 RFP does not contain any distinct requirements or approval criteria for applicants who are other existing school operators.	Mandatory	11/2022
Performance Measure B.3: Evaluation and Decision-Making Process To what degree does the authorizer have clear and comprehensive evaluation process standards to ensure qualified internal and external evaluators rigorously evaluate new charter school proposals? To what degree did the authorizer's decisions and resulting actions align to its stated approval criteria and evaluation process standards?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: The evaluation process standards in the 2020 RFP do not require the Commission to provide applicants with its decision that clearly communicates specific reasons for approval or denial. The example of a letter informing an applicant of its denial demonstrates that this is also not a practice of the Commission, as the letter provides a vague reason for the denial, simply stating that "the application did not meet the standard of approval for the criteria detailed in the 2018 RFP" (PERF Attachment O, p. 832).	Mandatory	11/2022
Opportunity: While the Commission uses other due diligence in practice, it does not appear to be a formal part of the evaluation process other than a mention in the 2020 RFP of "due diligence" as additional information that evaluators can consider (PERF Attachment M-1, p. 25). Applicants, evaluators, and decision-makers should have a better sense of the type of due diligence to expect even if certain types of due diligence is based on situations or conditions.	☒ Yes ☐ No*	12/2022
Opportunity: Documenting the Commission's evaluator conflicts of interest practices in process documents provided to applicants and decision-makers (such as the RFP) would make it clear to applicants and decision-makers that the application evaluation process is free of conflicts of interest.	☒ Yes ☐ No*	12/2022
Opportunity: While past evaluation teams have documented evidence to support whether the applicant meets the approval criteria (see PERF Attachment O, p. 659-695, for an example), this does not appear to be a documented evaluation process standard of practice. This should be a documented expectation for evaluators in whatever training materials are provided to evaluators, at a minimum.	☒ Yes ☐ No*	12/2022
Opportunity: The evaluation process standards in the 2020 RFP do not require the Commission to provide training to evaluators to ensure consistent evaluation standards and practices, observance of essential protocols, and fair treatment of applicants. While the Commission notes that the "Applications Specialist held a meeting	☒ Yes ☐ No*	12/2022

with evaluators to go over standards and process for evaluations" during the 2018 application cycle (PERF, p. 35), training for evaluators is not formally required. The RFP should make it clear to applicants, evaluators, and decision-makers that training for evaluators is a required element of the evaluation process.		
Opportunity: Once the Commission defines its vision of a high-quality charter school, it should align its approval criteria to that definition.	☒ Yes ☐ No*	12/2022

Performance Measure B.4: Pre-Opening Charter School Process
To what degree does the authorizer have clear and comprehensive pre-opening processes and criteria to determine the readiness of a pre-opening charter school to commence operations on a reasonable timeline?

Finding	Plan to be developed?	Projected date ready
Opportunity: It would be helpful to identify the Commission positions responsible for each area of the pre-opening process and their duties related to the pre-opening process.	☒ Yes ☐ No*	12/2022
Opportunity: Because the Commission has not implemented a pre-opening process in the past two years and it does not have a general pre-opening process and criteria to judge, it does not appear that the Commission is eligible for consideration of an "exemplary" rating. The Commission should consider establishing a pre-opening process and criteria template that it periodically updates and makes available to prospective charter applicants.	☒ Yes ☐ No*	12/2022

Performance Contracting

Performance Measure C.1: Charter Contract Terms, Negotiation, and Execution
To what degree does the authorizer negotiate and execute charter contracts that clearly define material terms and rights and responsibilities of the school and the authorizer?

Finding	Plan to be developed?	Projected date ready
Deficiency: Charter school representatives did not verify that there is mutual understanding and acceptance of the material terms of the charter contract, and the level of understanding and acceptance of the charter contract by charter schools appears to be insufficient. In a survey of charter school leaders, only 25% of respondents	Mandatory	12/2022

somewhat agreed or strongly agreed that the Commission "negotiates and executes sound charter contracts with each approved charter applicant and with existing public charter schools," the lowest rate of agreement of all survey questions asked. While the Commission should be commended for the degree of effort it put forth to engage with school representatives during the process to revise the charter contract to Charter Contract 4.0, both the survey and interviews with school representatives indicate that mutual understanding still was not achieved. Notably, the Commission did not appear to respond to the specific comments received during its "working sessions" in January, February, and March 2021, the final round of feedback, which may have left the impression on some that the Commission did not consider the feedback. Additionally, the deputy attorney general for the charter schools reviewed a draft of Charter Contract 4.0, at the request of some of the schools, and offered comments to the Commission's deputy attorney general. It appears the Commission accepted only a few comments without a clear indication to the schools why it did not accept the other comments offered by their legal counsel. Neither statute nor national standards and best practices prevent an authorizer from using a boilerplate charter contract for the schools within its portfolio, and the Commission can use the feedback session approach as its method for contract negotiation. However, any contract negotiation process must have clear two-way communication throughout to ensure the parties mutually understand and accept (with a clear understanding that acceptance is not the same as agreement) the material terms of the charter contract. The Commission did not appear to maintain clear two-way communication throughout the process.		
Deficiency: It is not clear whether changes or modifications to school plans or operations that are immaterial or otherwise not mentioned in the charter contract require a contract amendment. Section 19.2 of Charter Contract 4.0 states, in pertinent part, "Changes in operation that require the School to obtain an amendment to this Charter Contract include but are not limited to the following: (a). Any material term in Article II of this Charter Contract (Exhibit "A"); (b). Any School location changes, such as relocation of site or adding or terminating sites; (c). Any School management arrangement(s), such as intention to hire or terminate a ESP; and (d). Any admissions or enrollment changes to policies or procedures." (PERF Attachment R-3, p. 53) The charter contract provides a non-exhaustive list of changes or modifications requiring a contract amendment, but it does not describe any types of changes or modifications the school can make without a contract amendment other than changes in "textbooks, formative assessments or other instructional resources" (PERF Attachment R-3, p. 19). Even changes in curriculum require a contract amendment if it results in "any material changes to the Charter Contract such as the School's mission and/or vision" (PERF Attachment R-3, p. 19), and it is unclear why this provision is necessary because a school's mission and vision should drive its curriculum, not the other way around. Further, it is unclear why a school needs to obtain a contract amendment to make	Mandatory	12/2022

changes to its admissions policy when the policy itself is not a material term of, or even an attachment to, the charter contract. It is unclear what part of the contract would be amended in the instance of a change to an admission policy.		
Deficiency: Charter Contract 4.0 does not clearly state and respect the autonomies to which schools are entitled. While there is some acknowledgement of the school's authority over educational programming, previous iterations of the charter contract acknowledged this autonomy more explicitly. Charter Contract 2.0 and 3.0 both stated, "[T]he School shall have control over and responsibility for the design and delivery of the educational program" (PERF Attachment R-1, p. 2; PERF Attachment R-2, p. 13). The provisions that the Commission points to in its Performance Evaluation Response Form state the responsibilities of the governing board but do not explicitly state the school's authority over educational programming, staffing, budgeting, and scheduling with the exception of a limited regarding the school's authority over its curricular and instructional approach (PERF, p. 57-60).	Mandatory	12/2022
Deficiency: While Charter Contract 4.0 clearly states most of the responsibilities of the school and the authorizer in the event of school closures, it is not entirely clear on the responsibilities of the school in the event of financial insolvency. In the event of financial insolvency, the school is required to "comply with the Commission's closure policies and protocol" (PERF Attachment R-3, p. 50-51). However, this does not appear to be a requirement for other kinds of school closures. Instead, in the event of other school closures, section 18.13 states, in pertinent part, "The Governing Board and School personnel shall cooperate fully with the dissolution of the affairs of the School." (PERF Attachment R-3, p. 50-51)	Mandatory	12/2022
Deficiency: The Commission does not have additional contractual provisions for any school that contracts with an external (third-party) provider for education design and operation or management to ensure rigorous, independent contract oversight by the governing board and the school's financial independence from the external provider. Commission representatives noted that no schools currently contract with external providers for this purpose. During an interview with school representatives, a representative described a situation where a school wanted to contract with an external provider, but the Commission required a review of the contract with the provider. Even though none of the schools in the Commission's portfolio currently contract with external providers, the absence of contractual provisions to address such contracts creates confusion, at best, when the situation does arise and, at worst, could lead to a problematic relationship between the school and the external provider.	Mandatory	12/2022
Opportunity: The Commission granted previous iterations of the charter contract on varying terms from one year to five years in length. Only recently has the Commission granted new or renewed charter contracts all with a	☒ Yes ☐ No*	12/2022

five-year term. NACSA Standards state that a quality authorizer "grants charter contracts for an initial term of five operating years or longer only with periodic high-stakes reviews every five years." The Commission has not met this standard for at least the last three years and is therefore ineligible for an "exemplary" rating for this performance measure.		
Performance Measure C.2: Charter School Performance Standards To what degree does the authorizer execute charter contracts with clear, measurable, and attainable performance standards?		
Finding	**Plan to be developed?**	**Projected date ready**
Opportunity: The way Charter Contract 4.0 presents how the scoring works in the academic performance framework is confusing. The standardized assessments rubric contains more than ten described measures with each measure that "meets/exceeds" being worth seven points (PERF Attachment R-3, p. 63-64), and it was unclear how the scoring on these measures would add up to the maximum of 70 points until Commission representatives explained further. As currently presented in Charter Contract 4.0, there is room for interpretation as to what the Commission's academic performance expectations might be. At a minimum, the formatting of the academic performance framework needs to be improved.	☒ Yes ☐ No*	12/2022
Opportunity: Under the academic performance framework in Charter Contract 4.0, it is possible for a school to reach the minimum score required for charter contract renewal without meeting any of the expectations aligned with Strive HI. This is less of an issue if this aligns with the Commission's vision of a high-quality school, but if it does not, the Commission will need to change its academic performance framework to align with this vision. The Commission should review the findings in the 2017 NACSA Report relating to holding schools accountable for academic performance (PERF Attachment C-2, p. 11-12) before the Commission determines what a high-quality school looks like and changes its academic performance framework.	☒ Yes ☐ No*	12/2022
Opportunity: While the academic performance framework identifies a postsecondary readiness measure under the standardized assessments indicator in the academic performance framework, it is unclear and it is questionable as to whether it is an appropriate measure of postsecondary readiness, as required by HRS §302D-16(a)(6). The academic performance framework describes this measure as the "percentage of students reading at, or near grade level, and/or promotion rate, depending on grade level," and it applies only to grades 3, 8, and 9 (PERF Attachment R-3, p. 64). Commission representatives explained that the Department defined these measures as postsecondary measures for Strive HI and pointed to a technical document, entitled "2018-19 Strive HI Measures and Calculations: Technical Guide," as supposed evidence. However, the document does not define	☒ Yes ☐ No*	12/2022

any measures as measures of postsecondary readiness. While it may be appropriate to use literacy and promotion rate as postsecondary readiness indicators for elementary and middle school levels, these are not indicators typically used to measure postsecondary readiness at the high school level. The Commission needs to reassess how it will measure postsecondary readiness for the high school level.		
Opportunity: While the mission aligned initiative indicators attempt to emphasize autonomy in a measurable way, they could use some clarification. The academic performance framework needs to be clearer about the data sources for these indicators, and considering their qualitative nature, the framework needs to be more specific as to how these indicators will be judged.	☒ Yes ☐ No*	12/2022
Opportunity: Many of the data sources that form the evidence base for the performance frameworks are not explicitly defined or clear in the performance frameworks or elsewhere in Charter Contract 4.0 and require certain assumptions. The sources of academic data that will form the evidence base for ongoing and renewal evaluation are not defined. Indicator 2 in the academic performance framework contains "Strive HI" in the title of the indicator (PERF Attachment R-3, p. 63), but Strive HI is not mentioned anywhere else in the charter contract. Further, it is not entirely clear what the data sources for the other indicators in the academic performance framework are.	☒ Yes ☐ No*	12/2022
Opportunity: The sources of organizational data that will form the evidence base for ongoing and renewal evaluation are not entirely clear. While the "Comments" column in the table in the organizational performance framework appears to generally define the data sources for each of the standards, it is not explicitly clear that these "comments" actually define the data sources, and most of the comments lack any specificity (PERF Attachment R-3, p. 69-77).	☒ Yes ☐ No*	12/2022
Opportunity: The financial performance framework would also be clearer if it explicitly defined the sources of financial data that will form the evidence base for ongoing and renewal evaluation. The Commission explained that the charter contract "requires quarterly school self-reported financial statements, followed by an annual audit from a licensed auditor" (PERF, p. 105). The assumption is that the financial statements and annual audit act as sources of financial data for the financial performance standards, but neither the charter contract nor the financial performance framework explicitly define them as such. The Commission also noted that it reviews and monitors documents submitted for reimbursement by federal funds and uses the processing of payroll and the availability of funds in school accounts as additional information sources of financial data (PERF, p. 105-106). Again, neither the charter contract nor the financial performance framework define these as sources of financial data for the financial performance standards.	☒ Yes ☐ No*	12/2022

Ongoing Oversight and Evaluation

Performance Measure D.1: Process for Ongoing Oversight of Charter Schools To what degree does the authorizer have and implement a comprehensive oversight and monitoring system as defined by the charter contract?		
Finding	**Plan to be developed?**	**Projected date ready**
Opportunity: Implementation of the Commission's oversight and monitoring, consistent with its stated processes, could not be verified externally with consistent responses. Based on the interviews with school representatives, it is not clear that all schools have a similar experience with the Commission's oversight and monitoring system. Additionally, while a majority (58.3%) of charter school leaders who responded to the survey strongly agreed or somewhat agreed that the Commission "monitors, in accordance with charter contract terms, the performance and legal compliance of public charter schools," a substantial number either had no strong opinion, somewhat disagreed, or strongly disagreed (41.7% altogether).	☒ Yes ☐ No*	12/2022
Opportunity: The Commission should document its monitoring system through formal processes and procedures. The charter contract describes some elements of the oversight and monitoring system, but it does not comprehensively describe how all the elements work together or explain certain details of the system (such as how often the Commission conducts onsite monitoring or how the Commission determines what to monitor and in what manner). Documented processes and procedures for monitoring could provide clarity to schools and help bring more consistency to their experiences with the oversight and monitoring system.	☒ Yes ☐ No*	12/2022
Opportunity: Through systematic monitoring processes and procedures, the Commission should regularly monitor every school with both desk and on-site monitoring. The Commission should set a monitoring schedule that describes the kind of monitoring and makes the frequency of school visits clear.	☒ Yes ☐ No*	12/2022
Opportunity: The Commission should consider tracking its monitoring work output (such as the number of site visits and desk reviews, the nature of any visits and reviews, and the number and type of findings resulting from such visits and reviews) and the time and resources spent on monitoring. This will help the Commission better understand the resources it uses on monitoring, areas of monitoring that may need to be reduced or expanded, and additional resources that may be required for monitoring.	☒Yes ☐ No*	12/2022
Opportunity: The Commission should take a more systemic approach to academic performance monitoring. While the Commission issues annual performance reports that summarizes each school's academic performance	☒ Yes ☐ No*	12/2022

as defined by the academic performance framework, Commission representatives explained that the Commission takes a "hands off" approach to academic performance monitoring. Considering how critical the data and resulting scores in the academic performance framework are to renewal decisions, the Commission should consider at least presenting the annual academic performance results to governing boards to ensure the governing boards understand how their schools are performing and whether they are on track to hit the academic performance targets by the time of contract renewal.		

Performance Measure D.2: Protecting School Autonomy
To what degree does the authorizer respect, preserve, and support the essential autonomies of the portfolio of charter schools?

Finding	Plan to be developed?	Projected date ready
Deficiency: Provisions within the charter contract related to school autonomy exist but do not clearly ensure school autonomy and recognize the school's authority over the school's day-to-day operations and decisions that are clearly within the school's purview. While there is some acknowledgement of the school's authority over educational programming, previous iterations of the charter contract acknowledged this autonomy more explicitly. Charter Contract 2.0 and 3.0 both stated, "[T]he School shall have control over and responsibility for the design and delivery of the educational program" (PERF Attachment R-1, p. 2; PERF Attachment R-2, p. 13). The provisions that the Commission points to in its Performance Evaluation Response Form state the responsibilities of the governing board but do not explicitly state the school's authority over educational programming, staffing, budgeting, and scheduling with the exception of a limited provision regarding the school's authority over its curricular and instructional approach (PERF, p. 129-130). The Commission explains, "[H]ow the school operates their school is not defined in the contract and is left to the school's discretion and autonomy" (PERF, p. 132). However, avoiding infringements upon a school's authority is not the same as explicitly recognizing the school's authority through contractual provisions.	Mandatory	02/2023
Deficiency: An issue raised by school representatives provides another example of the lack of recognition of schools' statutorily granted autonomy. Charter Contract 4.0 includes definitions for "governing board" and "public charter school" that use most of the same language from the statutory definitions of the same terms (PERF Attachment R-3, p. 13-14). However, virtual education is explicitly excluded from these definitions even though it is included in both statutory definitions as an area of "independent authority" (HRS §302D-1). The decision to exclude virtual education from the definitions and as an area of school authority appears to have been intentional, as the charter contract excludes this statutory language while at the same time using other	Mandatory	02/2023

statutory language. While the contractual exclusion does not remove schools' statutory authority over virtual education, it comes across as the Commission actively ignoring this area of autonomy.		
Deficiency: It is unclear how the one documented example that the Commission provided aligns with the school autonomy provisions in the charter contract. In the example, the Commission "temporarily authorize[d] all thirty-seven public charter schools to provide distance, virtual, or other alternative mode of instruction or education in response to the Coronavirus (COVID-19) threat" (PERF Attachment U, p. 3). The Commission apparently needed to grant this temporary authorization because the charter contract prohibits "distance, virtual, or other alternative mode of instruction or education" without approval from the Commission, so it is not clear how this example of an exemption *from* the charter contract aligns *with* the charter contract.	Mandatory	02/2023
Opportunity: While the Commission did not clearly demonstrate how it minimized administrative burden on its portfolio of charter schools without compromising public interest, as it was unable to provide a documented example, the Commission should continue to annually review its compliance tasks and work with the Department on methods for data collection (PERF, p. 132). The Commission may want to consider finding out directly from charter schools the most onerous parts of its oversight and monitoring system and exploring ways to reduce the administrative burden in those areas.	☒ Yes ☐ No*	12/2022
Opportunity: As noted in Performance Measure D.1, implementation of the Commission's oversight and monitoring, consistent with its stated processes, could not be verified externally with consistent responses.	☒ Yes ☐ No*	12/2022
Opportunity: The Commission should review NACSA's standards related to respecting school autonomy to ensure its charter contracts, processes, and practices align. It may be beneficial to even consult with NACSA in this area. The Commission could also consider working with the schools within its portfolio on a common understanding of what "autonomy" means as a part of charter contract negotiations and/or the Commission's strategic planning.	☒ Yes ☐ No*	12/2022
Performance Measure D.3: Standards and Processes for Intervention and Corrective Action To what degree does the authorizer have clear and comprehensive standards and processes to address intervention and corrective action?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: When a Notice of Deficiency is needed, the Commission has the latitude to go beyond simply identifying what the school must remedy and can actually prescribe solutions to the school. The charter contract states that a Notice of Deficiency "may include prescriptive, specific action plans and conditions for the School"	Mandatory	02/2023

(PERF Attachment R-3, p. 47). When asked how the Commission reconciles this contract provision with NACSA Standards, which state a quality authorizer "engages in intervention strategies that clearly preserve school autonomy and responsibility [by] identifying what the school must remedy without prescribing solutions," Commission representatives explained that most authorizers in jurisdictions outside of Hawaii do not need to "enforce state or federal requirements," and when a school fails to comply, the Commission is "tasked by [HRS Chapter 302D] to interject [itself] and ensure that compliance." The basis for this justification is factually inaccurate. Most, if not all, authorizers across the nation are responsible for holding charter schools accountable to matters of legal compliance, and the Commission is no different. Further, state statute does not require the Commission to "interject" when there is an issue of legal compliance. The Commission must ensure compliance, and it can do so using its performance frameworks and an intervention process that identifies what the school must remedy without prescribing solutions. The explanation from Commission representatives during the interviews did not provide justification for the contract provision and raised some concerns about their understanding of the fundamental tenets of charter schooling: accountability and autonomy.		
Deficiency: Neither the charter contract, Notice of Concern forms, or documented examples indicate that the intervention process requires the Commission to give timely notice of contract violations or performance deficiencies. One of the documented examples shows that the Commission did not give a formal notice of contract violations for a failed fire inspection through a Notice of Concern until almost a year and a half after the fire inspection (PERF Attachment V-2).	Mandatory	02/2023
Deficiency: It is not clear whether the intervention process allows schools reasonable time and opportunity for remediation in non-emergency situations. The most recent documented example provided by the Commission gives the school two weeks to provide what appears to be reports related to a fire inspection (PERF Attachment V-2, p. 10-11), but it is unclear whether that is a reasonable expectation, especially since it is unclear whether the school would need to schedule and successfully pass a fire inspection within that window. Nothing else in the charter contract or other documents indicate that the Commission is required to provide a reasonable time and opportunity for remediation in non-emergency situations.	Mandatory	02/2023
Opportunity: Section 17.9 of Charter Contract 4.0 is entitled "Notice of Deficiency and Notice of Warning" (PERF Attachment R-3, p. 5, 47). However, a Notice of Warning is not defined or mentioned anywhere else in the charter contract. This appears to be a residual term from previous contract and intervention process iterations and should be removed for clarity.	☒ Yes ☐ No*	12/2022

Revocation and Renewal Decision-Making

Performance Measure E.1: Charter Contract Renewal Process and Performance Reports To what degree does the authorizer have a clear, comprehensive, fair, and transparent process for charter contract renewal?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: The most recently used criteria for charter renewal were not consistent with the charter contract. The renewal process described the results for schools that did not receive Notices of Deficiency during the charter contract term depending on whether the school meets performance targets, partially meets performance targets, does not meet performance targets, or has major compliance issues (PERF Attachment W-1, p. 2). However, Charter Contract 3.0, which is the charter contract version applicable to this renewal process, does not provide these criteria, and simply states, "If the School did not receive a Notice of Deficiency during the contract period[, it] will submit a renewal application for a five-year contract after receiving the Final Performance Report." (PERF Attachment R-2, p. 58) This statement makes it seem like a school that did not receive a Notice of Deficiency during the contract term would receive a new five-year charter contract, but that is not the case in the renewal process.	Mandatory	02/2023
Deficiency: The most recent performance report did not summarize all aspects of the school's performance, state all of the Commission's summative findings concerning the school's performance, or state the school's prospects for renewal. The performance report did not summarize the school's performance on the value-added targets in the academic performance framework or state the Commission's findings of the school's performance on those measures (PERF Attachment W-1, p. 6-8). The performance report also lacked any statement or indication of the school's prospects for renewal based on the summative findings as compared to the renewal criteria.	Mandatory	02/2023
Deficiency: In the most recent renewal process, the notifications to each school of the Commission's renewal decisions did not include written explanations of the reasons for the decisions. The notifications stated the Commission's decision to award a new charter contract and the various conditions of the new contract, but they did not include an explanation as to why the Commission was awarding a new contract with the specified term length and renewal conditions (PERF Attachment W-3).	Mandatory	02/2023
Opportunity: The most recent process for contract renewal included communication of renewal decisions to the school community and public, but that communication did not appear to be prompt or far-reaching enough. The Commission communicated its renewal decisions through its monthly e-newsletter (PERF Attachment W-4). The	☒ Yes ☐ No*	12/2022

communication was not prompt, as the decisions were made on January 10, 2020 but communicated through a February 2020 newsletter. Further, it is unlikely that the communication broadly reached the relevant school communities or the public, especially when it was contained in a blurb in a general newsletter rather than targeted through more intentional outreach or communication.		
Opportunity: The Commission should avoid implementing a renewal process that could potentially attempt to remove the rights of a school to appeal to the Board. In January 2020, the Commission approved charter contract renewal for some schools with a condition that stated, "Should the school not meet this condition, the school shall surrender its charter at the end of the contract term (fifth year)" (see Yvonne Lau's memorandum to John Kim, dated June 7, 2021, on an agenda item entitled "Action on Renewal of Charter Contract Condition regarding Complex-Like Academic Measure for Hakipu'u Academy, Hālau Kū Māna Public Charter School, Kamaile Academy Public Charter School, Ke Ana La'ahana Public Charter School, Kua o ka Lā New Century Public Charter School, Kona Pacific Public Charter School, Laupāhoehoe Community Public Charter School, Nā Wai Ola Public Charter School, and Waimea Middle Public Conversion Charter School"). While Commission representatives explained that these conditions are no longer applicable, the Commission should not be requiring schools to accept charter contracts with any condition that essentially allows the Commission to terminate the charter contract without revocation or nonrenewal (in this instance, via "surrender"). Although unclear, the result could be an apparent removal of appeal rights or, at the very least, much messier appeal proceedings.	☒ Yes ☐ No*	12/2022
Opportunity: The Commission should consider initiating the renewal process as early as possible in a schools final year of its charter contract and issuing a final renewal decision as quickly as possible. Giving a school as much advance notice as possible on renewal decisions will provide the Commission and the governing board to discuss and come to a mutual understanding and acceptance of the next charter contract before its execution. An earlier timeline would also help with appeal process timing, if necessary.	☒ Yes ☐ No*	12/2022
Performance Measure E.2: Charter Contract Renewal or Revocation Decisions To what degree do the authorizer's renewal and revocation decisions align to its stated performance standards?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: The Commission granted renewals to schools that did not meet the academic performance standards. While the Commission followed its renewal criteria, the criteria allowed schools who only partially met performance standards to receive new five-year charter contracts with conditions and allowed schools who did not meet performance standards to receive a one-year contract extension (PERF Attachment W-1, p. 2). For	Mandatory	02/2023

example, the Commission granted at least one charter school that did not meet any of its student academic outcome targets in the academic performance framework with a five-year contract with conditions to improve its academic performance (see Commission's general business meeting minutes of January 10, 2020), and it is not clear that the Commission "[g]round[ed] its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract," pursuant to HRS §302D-18(f)(1). Commission representatives even acknowledged that the academic performance data for some of these schools fell below expectations, but they noted that they wanted to give these schools a chance to improve because it felt uncomfortable not renewing their charter contracts. This implies that the Commission may have made this renewal decision "solely on promises of future improvement" (as described in the NACSA Standards on renewal decisions and the indicator specifications of this Performance Measure). When asked, Commission representatives explained that while promises of future improvement were one factor in the decision to renew, the Commission considered other factors, such as the capacity of the governing board and the school's financial performance, noting that there was discomfort with having an "academic trip wire." However, grounding renewal decisions in evidence of only the school's organizational and financial performance and promises of future improvement in academic performance does not align with NACSA Standards or the spirit and intent of HRS Chapter 302D. A critical role of an authorizer is to hold charter schools accountable to rigorous academic performance expectations, not just organizational and financial expectations. It is evident that many of findings in the 2017 NACSA Report relating to holding schools accountable for academic performance, which it rated as an area needing improvement, are still present today (PERF Attachment C-2, p. 11-12). One of the key findings from the report is that the Commission needs to "[s]et a higher bar for renewal and make the difficult decision to non-renew or revoke the charters of schools that have chronically failed to make sufficient improvement or progress" (PERF Attachment C-2, p. 9). To date, the Commission has still never closed a school for failing to meet academic performance expectations even though several schools fall into that category. The story of the Commission's academic performance accountability woes appears to be either setting the academic performance bar so low that all schools can clear it or setting a higher bar but not taking appropriate action when schools fail to meet it.		
Opportunity: For the schools that did not meet the academic performance expectations but the Commission still renewed, Commission representatives explained that the Commission placed unique academic performance expectations on each of these schools, such as specific targets benchmarked to the complex area or like demographics, as a condition of the renewal. These conditions were separate from the expectations contained in	☒ Yes ☐ No*	12/2022

the charter contract and the performance frameworks. While these conditions appear to be moot according to the Commission representatives, the Commission should avoid creating renewal or performance expectations that are not explicitly captured in the performance frameworks to comply with HRS §302D-18(f)(1).		
Opportunity: It is not clear whether the Commission "[p]rovide[s] a public report summarizing the evidence and basis for each [renewal] decision," pursuant to HRS §302D-18(f)(3). It would be useful to produce this kind of report immediately following a renewal decision as well as including the information in the Commission's annual report.	☒ Yes ☐ No*	12/2022
Opportunity: The Commission should consider the feasibility of compressing the revocation process. When the Commission seriously considers the closure of a school, it should take final action as quickly as possible to minimize the costs to students, families, and the State.	☒ Yes ☐ No*	12/2022
Performance Measure E.3: School Closure Protocol To what degree does the authorizer have a closure protocol that is clear and comprehensive?		
Finding	**Plan to be developed?**	**Projected date ready**
Opportunity: The Commission should consider a review of its closure protocols with the intention of compressing the timeline wherever possible.	☒ Yes ☐ No*	12/2022
Opportunity: The Commission should consider developing a closure protocol for a charter school whose contract is not renewed with more precise timelines that are tied to the renewal process timeline and based on the notification of non-renewal.	☒ Yes ☐ No*	12/2022

Exhibit B

January 27, 2023, memorandum from Commission with Revised Work Plan

JOSH GREEN. M. D.
GOVERNOR

CATHY K. IKEDA
CHAIRPERSON

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January 27, 2023

Via Email (lynn.fallin@boe.hawaii.gov, boe.hawaii@boe.hawaii.gov)

Lynn Fallin, Committee Chairperson
Hawaii Board of Education, Commission Outcomes Committee
P.O. Box 2360
Honolulu, Hawaii 96804

Re: Commission Continuous Improvement Plans—Commission response to Opportunities suggested by the BOE

Dear Ms. Fallin and the Members of the BOE Commission Outcomes Committee:

The State Public Charter School Commission, through the work and recommendation of its permitted interaction group formed to address the Opportunities suggested by the BOE in the Commission Continuous Improvement Plans Timeline Form, met on January 11, 2023 and approved the following response to the suggested opportunities below. In order to clearly identify the opportunities items referenced, the Commission has identified the specific opportunities in the attached version of the Commission Continuous Improvement Plans Timeline Form. We numbered the specified opportunities to facilitate our response (see Attachment 1).

The Commission has reviewed and responds to the Opportunities identified in the Commission Continuous Improvement Plans as follows:

Opportunities that the Commission **has already or are being addressed** in the revised strategic plan	Commission **acknowledges the opportunity to improve** in the following itemized Opportunities	The Commission **disagrees** with the characterization of these issues ***but will take these as opportunities to work with the BOE on its understanding of the Commission's work and oversight functions***
A.1.1, A.1.2, A.2.2, A.2.3, A.2.5, A.3.1, A.4.1, A.4.2, A.5.1, A.6.2, A.6.3, A.8.2, A.9.1, B.1.1, B.1.2, B.1.3, B.3.1, B.3.2, B.3.3, B.3.4, B.3.5, B.4.1, B.4.2, C.2.4, C.2.5, C.2.6, D.1.1, D.1.2, D.1.3, D.1.4, D.1.5, D.2.1, and D.2.2	A.5.2, A.9.2, D.3.1, and E.3.2	A.2.1, A.2.4, A.3.2, A.6.1, A.8.1, C.1.1, C.2.1, C.2.2, C.2.3, C.2.7, D.2.3, E.1.1, E.1.2, E.1.3, E.2.1, E.2.2, E.2.3, and E.3.1

For the Opportunities in the first column of the table above, these items have already been or are being addressed in the Commission's work in its revised strategic plan and will report them out accordingly in its quarterly reports and in its 2022-2023 annual report.

For the Opportunities in the middle column, the Commission acknowledges the opportunity to improve upon the issues identified and will be adding these items to its current work.

For Opportunities that the Commission has done or will be doing, the Commission will be reporting out at their general business meetings on a quarterly basis as part of its work on implementing its revised Strategic Plan and will specifically identify the Opportunities as itemized in this letter.

For the Opportunities in the last column, the Commission disagrees with the characterization of these issues. However, the Commission will take these areas as opportunities to work with the BOE on its understanding of the Commission's work and oversight functions. The Commission

appreciates the BOE's intent on trying to work with all parties to move the Commission's work forward.

Should the Committee have any questions, please feel free to contact me.

Mahalo,

Cathy Ikeda

Cathy K. Ikeda
Chair

Attachment

cc: Alison Kunishige, Executive Director via email (alison.kunishige@boe.hawaii.gov)
Regina Pascua, Executive Secretary to the Chairperson, via email (Regina.Pascua@boe.hawaii.gov)
Kenyon Tam, Board Analyst, via email (kenyon.tam@boe.hawaii.gov)
Lady Garrett, Secretary, via email (lady.garrett@boe.hawaii.gov)

Commission Continuous Improvement Plans Timeline Form *with Itemized Opportunities*

This form lists all deficiency and other opportunity for improvement findings found in the Board of Education's ("Board") performance evaluation report in order of performance measure. The Board has required the State Public Charter School Commission ("Commission") to develop continuous improvement plans to address every finding of deficiency (noted as "Deficiency" in this form). The Board has also required the Commission to consider developing continuous improvement plans to address the other opportunities for improvement findings (noted as "Opportunity" in this form).

Instructions

For each Deficiency listed under the "Findings" column, provide the date (in an "mm/yyyy" format under the "Projected date ready" column in the corresponding row) for when the Commission projects it will have the continuous improvement plan addressing the respective Deficiency completed.

For each Opportunity listed under the "Findings" column, select either "Yes" or "No" under the "Plan to be developed?" column in the corresponding row indicating whether or not the Commission will develop a continuous improvement plan to address the respective Opportunity. If "Yes" is selected for an Opportunity, provide the date (in an "mm/yyyy" format under the "Projected date ready" column in the corresponding row) for when the Commission projects it will have the continuous improvement plan addressing the respective Opportunity completed. If "No" is selected for an Opportunity, put "N/A" under the "Projected date ready" column in the corresponding row. *

*Note that if the Commission opts for no continuous improvement plan to address an Opportunity, the Commission will need to provide an explanation later as to why a continuous improvement plan is unnecessary for the respective Opportunity.

Organizational Capacity and Infrastructure

Performance Measure A.1: Authorizer Mission
Does the authorizer have a clear and compelling mission for charter school authorizing that aligns with, supports, and advances the intent of law and purpose of charter schools?

Finding	Plan to be developed?	Projected date ready
A.1.1 Opportunity: The Commission can better advance the intent of Board Policy E-700 through its mission when it defines what "high quality" means for charter schools. The Commission should carefully review and incorporate the purposes of charter schools as described in Board Policy E-700 in the Commission's determination of "high quality."	**X** Yes ☐ No*	
A.1.2 Opportunity: While a strong majority of charter school leaders felt that the Commission practices its mission, another 25% of survey respondents somewhat disagreed or strongly disagreed. The Commission should consider developing a more robust system for external stakeholders to review and comment on the alignment of the Commission's mission and vision with the intent of the charter school law and Board Policy E-700.	**X** Yes ☐ No*	

Performance Measure A.2: Strategic Vision and Organizational Goals
Does the authorizer have and evaluate its work against its comprehensive long-term strategic vision for charter school authorizing with clear organizational goals and timeframes for achievement that align with, support, and advance the intent of law and the purpose of charter schools?

Finding	Plan to be developed?	Projected date ready
Deficiency: It is not clear how some of the organizational goals align with the Commission's vision. While the organizational goals contained within the 2019-2023 Strategic Plan clearly align (PERF Attachment A-2, p. 17-18), the Commission did not provide evidence on how its other organizational goals (PERF Attachments A-3, A-4, A-5) are connected to its vision. These other organizational goals appear to be part of the Commission's	Mandatory	

Performance Measure A.2: Strategic Vision and Organizational Goals Does the authorizer have and evaluate its work against its comprehensive long-term strategic vision for charter school authorizing with clear organizational goals and timeframes for achievement that align with, support, and advance the intent of law and the purpose of charter schools?		
work to revise its strategic plan, but it is not clear whether this is the case nor is it clear how these organizational goals align with a revised vision. Further, these other organizational goals do not have timeframes for achievement, and while most of the strategies attached to each goal have performance indicators (PERF Attachment A-4), the organizational goals themselves are not measurable. The organizational goals within the 2019-2023 Strategic Plan also are not clearly measurable.		
Deficiency: It is not clear whether the strategies outlined in the 2019-2023 Strategic Plan are appropriate long term strategies to achieve the stated vision. While it seems possible for the portfolio, practice, and policy strategy approach to achieve the Commission's vision to "Authorize with ALOHA; actualize a learning organization and system; and amplify charter school portfolio and practices" (PERF Attachment A-2, p. 14-15), the document does not describe a clear enough alignment or explain how each of the specific strategies contributes to achieving the vision. The other organizational goals and strategies also do not explain how they contribute to achieving either the vision in the 2019-2023 Strategic Plan or a revised vision (PERF Attachments A 3, A-4, A-5).	Mandatory	
Deficiency: It is not clear whether the Commission evaluates its work against its vision. The Commission provided a "performance management cycle" document (PERF Attachment B-1), but there is no clear indication that this represents an evaluation process focused on aligning the Commission's work with its vision. Further, there is a lack of evidence that the Commission implements plans for improvement when falling short of its organizational goals nor is there clear documentation that the Commission accomplished its goals. The Commission provided hundreds of pages of "meeting agendas, submittals, workgroup meetings and Permitted Interaction Group work on the Commission's strategic plan implementation and revisions" as "evidence" of self-evaluation of its work against its vision and organizational goals (PERF, p. 6; PERF Attachment B-2), but the Commission did not explain what these documents represent and how they are relevant. A quick word search of three of the Commission's organizational goals (from PERF Attachment A-3) in these documents yielded no results, which suggests that these documents do not contain specific information about how the Commission evaluates its organizational goals or implements plans for improvement when falling short of them. The Commission also provided evidence of its work to revise its strategic plan (PERF Attachment C-1), but revising a strategic plan is not the same as implementing improvement plans.	Mandatory	

Performance Measure A.2: Strategic Vision and Organizational Goals Does the authorizer have and evaluate its work against its comprehensive long-term strategic vision for charter school authorizing with clear organizational goals and timeframes for achievement that align with, support, and advance the intent of law and the purpose of charter schools?		
A.2.1. Opportunity: While the Commission appears to have recently changed its strategic plan, it should consider reopening the strategic planning process to ensure it addresses the findings in this report. The Commission should clarify whether the new strategic plan is a revision of the 2019-2023 Strategic Plan (with the same fundamental vision, values, and principles) or a brand new strategic plan with significant differences from the 2019-2023 Strategic Plan. The new strategic plan should be clear about how the charter school system will work together going forward, including detailed milestones, expectations, and timelines, much of what was missing from the 2019-2023 Strategic Plan. Given the history of the tensions between the Commission and the charter schools, reopening the strategic planning process and including external stakeholders would be a good operational next step that could lead to improved clarity and relations. This is a great opportunity for broadening and strengthening external review processes to build common understanding. Such a process could improve internal and external alignment on roles, expectations, and performance in areas such as innovation and school autonomy that are part of national principles for quality authorizers while continuing to foster and support important areas unique to Hawaii.	☐Yes **X** No*	
A.2.2 Opportunity: As communication and trust are foundational to implementation and working relationships between the Commission and the charter schools within its portfolio, the Commission should consider adding metrics to its revised strategic plan to measure progress in improving communication and trust, which are connected to the "Aloha Spirit" values described in the revised plan (PERF Attachment C-1, p. 23).	**X** Yes ☐No*	
A.2.3 Opportunity: While the 2019-2023 Strategic Plan identifies "operating laboratories of innovation" as one of three strategic anchors (PERF Attachment A-2, p. 11), the Commission does not elaborate further on the role of innovation in the 2019-2023 Strategic Plan or in its revised strategic plan. This is a missed opportunity. Charter schools are supposed to "implement innovative educational practices," pursuant to Board Policy E-700, which envisions charter schools as laboratories of innovation to strengthen and add value to the public education system, resulting in improved student learning. The Commission should determine how much risk it can accept from charter schools, as innovators, particularly in the educational programmatic areas, and how risk-taking and innovation factor into performance monitoring, contract renewal, and defining a "high-quality charter school." Further, the Commission should determine a plan and actions for long-term research on the	**X** Yes ☐No*	

Performance Measure A.2: Strategic Vision and Organizational Goals Does the authorizer have and evaluate its work against its comprehensive long-term strategic vision for charter school authorizing with clear organizational goals and timeframes for achievement that align with, support, and advance the intent of law and the purpose of charter schools?		
lessons learned from its entire portfolio in school innovation areas and effectiveness.		
A.2.4 Opportunity: The Commission should reflect on whether its organizational goals are ambitious enough and perhaps even ask its stakeholders to weigh in on the ambitiousness of its goals.	☐Yes **X** No*	
A.2.5 Opportunity: The Commission should actively measure its organizational goals to help it determine whether it is achieving most goals within the stated timeframes. The Commission should keep its stakeholders abreast of its progress by including in its annual reports its performance in meeting the organizational goals stated in its strategic plan.	**X** Yes ☐No*	

Performance Measure A.3: Structure of Operations To what degree does the authorizer operate with a clear structure of duties and responsibilities, including appropriate lines of authority and delegation of duties between decision-makers and staff, and sufficient resources to effectively oversee its portfolio of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**
A.3.1. Opportunity: The Commission is aware that it needs to revise its job descriptions and it planned to do it after the revision of its strategic plan. Regularly reviewed and updated job descriptions would ensure duties and responsibilities among all staff are clear.	**X** Yes ☐No*	

Performance Measure A.3: Structure of Operations To what degree does the authorizer operate with a clear structure of duties and responsibilities, including appropriate lines of authority and delegation of duties between decision-makers and staff, and sufficient resources to effectively oversee its portfolio of charter schools?		
A.3.2. Opportunity: It is not entirely clear who, aside from those on the Performance Team, are responsible for the essential authorizing duties of the Commission. The Commission identified most of its positions as having authorizing duties, explaining, "Nearly all Commission staff function in some way that provides the Commission's authorizing arm data that feeds into the overall performance of public charter schools in meeting the requirements of their public charter contracts" (PERF, p. 10). However, providing the data needed for authorizing is not the same as conducting authorizing responsibilities. For instance, the Department of Education (the "Department") provides the Commission with data it needs for authorizing, but the Department surely does not have authorizing responsibilities. When asked for more clarity, Commission representatives noted that it is difficult to separate those who do its authorizing functions from those who do not. By not being clear about who is responsible for the essential authorizing responsibilities (particularly with a lack of updated job descriptions), the Commission risks reducing the importance of the positions most responsible in delivering its core authorizing mission, which could result in not prioritizing resources for those positions and functions. Some of the lack of clarity appears to stem from a belief that the Commission is required to do more than authorizing. The Commission asserts that because Hawaii charter schools are state entities unlike charter schools in other parts of the nation, the Commission is "required" to function both as an authorizer and an "administrative state agency that provides fiscal and other state agency liaison functions to the public charter schools it authorizes" (PERF, p. 9). This assertion, however, is not entirely accurate because the only administrative fiscal and liaison functions required of the Commission are to "[a]ct as a point of contact between the department and a public charter school it authorizes" and be responsible for the receipt and distribution of state and federal funds, pursuant to HRS §302D-5(b). Other functions the Commission takes on beyond these requirements are by its own hand. The absence of other services and supports for charter schools, such as those the Department provides to its schools, is one of the justifications for the Commission taking on additional functions (PERF, p. 8), which is noble and laudable. However, the more responsibilities the Commission takes on beyond its essential authorizing responsibilities, the fewer resources are available to support the authorizing needs of the Commission's portfolio due to mission creep. The 2017 NACSA Report had similar findings and even recommended that the Commission "[n]egotiate with the [Department] to transfer non-authorizing, administrative, and federal program duties back to the [Department] so the Commission can focus its staffing and resources on authorizing" (PERF Attachment C-2, p. 24).	**X** Yes ☐ No*	

Performance Measure A.3: Structure of Operations To what degree does the authorizer operate with a clear structure of duties and responsibilities, including appropriate lines of authority and delegation of duties between decision-makers and staff, and sufficient resources to effectively oversee its portfolio of charter schools?		
Through its annual reports to the Legislature, the Board has already expressed its desire to have a formal structure to provide centralized support to charter schools outside of the Commission. It is due time for the Legislature, Board, Commission, Department, and charter schools to explore how to make this happen, and the Board encourages the Commission to have a conversation about an approach that makes sense. In the meantime and to make a transition to this kind of structure more feasible, it is important for the Commission to be clear about the positions and resources it uses strictly on essential authorizing functions only. If positions have administrative or technical support responsibilities in addition to authorizing responsibilities, the Commission should be clear about the percent of time each position spends in each area of responsibility, although the Commission should strive to avoid comingling authorizing responsibilities with other responsibilities as much as possible. Additionally, it would be beneficial if the Commission could help identify any supports that charter schools need that the Commission cannot currently provide by law.		

Performance Measure A.4: Authorizer Leadership and Staff Expertise To what degree does the authorizing staff have or have access to appropriate experience, expertise, and skills to sufficiently oversee the portfolio of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**

Performance Measure A.4: Authorizer Leadership and Staff Expertise To what degree does the authorizing staff have or have access to appropriate experience, expertise, and skills to sufficiently oversee the portfolio of charter schools?		
A.4.1 Opportunity: The executive director position has been vacant for a long time. A long-term executive director is critical to implement the revised strategic plan, achieve the organizational goals, stabilize the organization, and build stronger relationships with schools. Further, even though the necessary skills appear to be readily accessible, this performance evaluation identifies areas where the authorizing staff have had trouble effectively applying their experience and expertise. The Commission needs strong leadership to tap into the aptitude the staff seemingly possess to draw out their skills and maximize the overall capacity of the Commission. The Commission needs to find and hire an executive director with this kind of leadership ability as soon as possible. The Commission should proceed with the recruitment of a new executive director immediately.	**X** Yes ☐ No*	
A.4.2 Opportunity: Commission representatives readily admit that the Commission staff need more expertise in the area of academics, especially in light of several vacancies. As academic performance oversight is central to an authorizer's role and responsibilities, the Commission should make bolstering capacity in this area a priority and act immediately to fill vacancies.	**X** Yes ☐ No*	

Performance Measure A.5: Capacity and Skill Development of Leadership and Staff To what degree does the authorizer ensure a commitment to quality authorizing and enable continual agency improvement through regular professional development of its authorizing leadership and staff that is aligned with its mission, vision, and organizational goals?		
Finding	**Plan to be developed?**	**Projected date ready**

Performance Measure A.5: Capacity and Skill Development of Leadership and Staff To what degree does the authorizer ensure a commitment to quality authorizing and enable continual agency improvement through regular professional development of its authorizing leadership and staff that is aligned with its mission, vision, and organizational goals?		
A.5.1 Opportunity: Commission representatives explained that the Commission does not have a formalized process for determining who needs professional development, noting that the Commission needs to revise its job descriptions first based on its revised strategic plan. Once the Commission revises its job descriptions, it should develop a system for identifying and organizing professional development needs and opportunities with explicit links to the measurable outcomes in the revised strategic plan. Currently, the link to the Commission's strategic plan and alignment with the Commission's mission, vision, and organizational goals can only be assumed. The system should identify both individual capacity needs for each position as well as the overall authorizing needs of the Commission's portfolio and align professional development investments with those needs. Implementing annual reviews of each Commission staff member could help in identifying areas where staff need professional development in addition to areas of strengths.	**X** Yes ☐ No*	
A.5.2 Opportunity: It could be helpful to have governing board members and charter school directors attend some NACSA training sessions to strengthen the alignment between the Commission and the schools and to build a common ground of understanding of authorizer roles and responsibilities, best practices, and expectations.	**X** Yes ☐ No*	

Performance Measure A.6: Authorizing Operational Budget To what degree is the authorizer's actual resource allocation commensurate with its stated budget and responsibilities of authorizing the portfolio of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**

Performance Measure A.6: Authorizing Operational Budget To what degree is the authorizer's actual resource allocation commensurate with its stated budget and responsibilities of authorizing the portfolio of charter schools?		
Deficiency: There is no evidence that the Commission's resource allocations are adequate to fulfill its authorizing responsibilities and the needs and scale of its portfolio. It is not clear that the Commission has determined the costs of the authorizing needs of its portfolio, and its funding or staffing are not tied to the number of schools in its portfolio.	Mandatory	
A.6.1 Opportunity: As noted under Performance Measure A.3, the Board has already expressed its desire to have a formal structure to provide centralized support to charter schools outside of the Commission. To make a transition to this kind of structure more feasible, it is important for the Commission to be clear about the positions and resources it uses strictly on essential authorizing functions only. The Commission should keep track of the resources it uses for its essential authorizing responsibilities under HRS §302D-5(a) separately from resources used for administrative and technical support functions, including those duties under HRS §302D-5(b). Not only will this make a transition to a centralized support structure simpler, it will make it clear whether the Commission has enough dedicated resources to accomplish the work necessary for its core authorizing mission.	☐Yes **X** No*	
A.6.2 Opportunity: The Commission should more explicitly link the budget to the strategic plan and organizational goals. Performance metrics on organizational and budgetary effectiveness could help.	**X** Yes ☐No*	
A.6.3 Opportunity: The Commission indicated that an issue it has with recruitment and retention of staff is its inability to compete with the higher salaries offered by other state agencies. Under HRS Chapter 89C, the Commission is obligated to make compensation adjustments for its employees "in consideration of the compensation and benefit packages provided for other employees in comparable agencies." The Commission should review the appropriateness of its salaries in conjunction with its job description updates and pursue additional resources for compensation adjustments as necessary. The Commission should tap the Department's Office of Talent Management to assist it, and like two other administratively attached agencies who already receive similar human resources support from the Department—the Executive Office on Early Learning and the Hawaii Teachers Standards Board—the Commission's positions and salaries would best align with those of the Department.	**X** Yes ☐No*	

Performance Measure A.7: Self-Evaluation of Capacity, Infrastructure, and Practices To what degree does the authorizer regularly self-evaluate its internal ability (capacity, infrastructure, and practices) to oversee the portfolio of charter schools and develops continuous improvement plans to address findings of self-evaluation?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: While the Commission occasionally conducts self-evaluations, they are not regularly scheduled or executed. The Commission does not have a schedule or plan for conducting self-evaluations.	Mandatory	
Deficiency: The Commission does not design continuous improvement plans to address the findings resulting from self-evaluation. The Commission provided revisions to its strategic plan as evidence of a continuous improvement plan (PERF Attachment C-1), but these revisions occurred recently and are not a result of the evaluation NACSA conducted four years ago. Commission representatives explained that while the NACSA evaluation is still relevant to the revision of the strategic plan, the strategic plan changes are a result of challenges in implementing the 2019-2023 Strategic Plan, not a result of a self-evaluation. While the NACSA evaluation was one source of information that informed the strategic plan revisions (PERF Attachment B-2, p. 59), none of the planning documents indicated that the new strategic plan is meant to act as a continuous improvement plan designed to address the specific findings in the 2017 NACSA Report.	Mandatory	

Performance Measure A.8: Operational Conflicts of Interest To what degree does the authorizer implement a clear policy to address conflicts of interest in all decision-making processes concerning the portfolio of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**

Performance Measure A.8: Operational Conflicts of Interest To what degree does the authorizer implement a clear policy to address conflicts of interest in all decision-making processes concerning the portfolio of charter schools?		
A.8.1 Opportunity: The Commission's conflict of interest policy, processes, and procedures could more clearly avoid decisions and interventions that hold the Commission accountable for a school's performance. The Commission explained that its decisions and interventions "should be grounded in the evidence and data presented in the submittal, the presentation of the issue by the relevant parties, and the Commission's discussion on the issue prior to decision-making" (PERF, p. 21), which makes sense, but the conflict of interest policy, processes, and procedures do not state as much. Further, when considered with the charter contract provision that states that a Notice of Deficiency "may include prescriptive, specific action plans and conditions for the School" (PERF Attachment R-3, p. 47), it is possible to conceive a scenario where the Commission intervenes with a school's operations. The Commission could require a school to take specific actions, and if the school still fails to meet expectations after taking the actions specified by the Commission, the school could pin the failure back on the Commission because it forced the school to take the action that resulted in the failed expectations. This possible scenario would make the Commission accountable for the school's performance rather than having the school solely accountable for its own performance. While Commission representatives emphasized that the intent of the contract provision is not for the Commission to get involved in internal operations of a school, neither the conflict of interest policy nor the charter contract make it clear that the Commission will not or cannot interfere with internal operations of schools. The Commission should consider amending the charter contract by removing the provision that allows the Commission to require "prescriptive, specific action plans" for schools and including a provision prohibiting the Commission from interfering with the internal operations of a school unless it is to "immediately address serious health and safety issues," pursuant to HRS §302D-17(e).	☐Yes **X** No*	
A.8.2 Opportunity: While the Commission's practice is to have staff complete an online State Ethics Code training, the Commission should consider formally systemizing and planning regular conflicts of interest training for all staff, especially new staff.	**X** Yes ☐No*	

Performance Measure A.9: Compliance to Statutory Responsibilities and Board Policies To what degree does the authorizer comply with its statutory responsibilities, including authorizer reporting and the appropriate distribution of funds to its charter schools, and Board policies?		
Finding	**Plan to be developed?**	**Projected date ready**
A.9.1 Opportunity: While the Commission reports its progress in achieving priorities and goals in its annual reports, these priorities and goals are not contained within or explicitly attached to the Commission's strategic plan. As stated in Performance Measure A.2, the Commission should keep its stakeholders abreast of its progress by including in its annual reports its performance in meeting the organizational goals stated in its strategic plan. The use of operational metrics that align with the Commission's organizational goals would be helpful in communicating this.	**X** Yes ☐ No*	
A.9.2 Opportunity: Recent annual reports contain longitudinal data, but they do not have any kind of comprehensive analyses explaining performance trends of the portfolio of schools. This kind of analysis could be particularly useful in the academic performance areas, especially if incorporating metrics related to Native Hawaiian language and culture-focused education.	**X** Yes ☐ No*	

Application Process and Decision-Making

Performance Measure B.1: Application Process, Timeline, and Request for Proposals To what degree does the authorizer have a comprehensive and well-publicized application process that includes realistic timelines, fair and transparent procedures, and guidance that clearly describes each stage of the process? To what degree is the authorizer's request for proposals clear, comprehensive, and aligned to its mission, vision, and organizational goals?		
Finding	**Plan to be developed?**	**Projected date ready**

Performance Measure B.1: Application Process, Timeline, and Request for Proposals To what degree does the authorizer have a comprehensive and well-publicized application process that includes realistic timelines, fair and transparent procedures, and guidance that clearly describes each stage of the process? To what degree is the authorizer's request for proposals clear, comprehensive, and aligned to its mission, vision, and organizational goals?		
Deficiency: The vision publicized in the 2020 RFP appears to be an outdated strategic vision. It states, "The Commission's strategic vision for the chartering of these high-quality schools is that they not only provide excellent and diverse educational options for Hawaii's families but that they also contribute meaningfully to the continued improvement of Hawaii's public education system as a whole." (PERF Attachment M-1, p. 7) The 2019- 2023 Strategic Plan states the same strategic vision for historical context only (PERF Attachment A-2, p. 5-6), and it establishes an entirely different strategic vision for the Commission later in the document (PERF Attachment A 2, p. 12-13). Therefore, while the 2020 RFP did publicize a vision, it did not publicize the vision applicable at the time of publication; thus, the relevancy of the publicized chartering priorities to the applicable strategic vision is questionable.	Mandatory	
Deficiency: It is questionable, at best, whether the Commission's 2020 application process allows sufficient time for each stage of the application process to be carried out with quality and integrity. The Commission touts that the 2017 NACSA Report found the Commission's application process to be strong with the highest rating of "excellent" (PERF, p. 25). However, because NACSA completed its evaluation in 2017, it reviewed an older version of the Commission's application process. The Commission's application process timeline has progressively shortened over the years, lasting approximately eight months in 2016-2017 from the submission of Intent to Apply Packets to the Commission's final decision before shortening to a four-month-long process in 2018 and a three-month-long process in 2020 (PERF, p. 27). The most notable changes include (1) reducing the time applicants have to submit an application from the time the RFP is publish from approximately four months in 2016-2017 to just six weeks in 2020 and (2) reducing the time the evaluation team has to review applications and draft recommendation reports from over three and a half months in 2016-2017 to just three weeks in 2020 (PERF Attachment M-1, p. 14-15; PERF Attachment M-3, p. 15). For comparison, the Board gave the Commission three months to provide the initial requested information the Board needed for this performance evaluation of the Commission, and the Commission still needed to request an extension. The information a charter applicant needs to provide is similarly complex and onerous to compile, and six weeks does not appear to be sufficient time to do so. Further, to conduct evaluations of such complex documents with quality and integrity and write recommendation reports based on those evaluations in just three weeks is simply not realistic, especially considering that the Commission could have needed to evaluate up to eight applications in	Mandatory	

Performance Measure B.1: Application Process, Timeline, and Request for Proposals To what degree does the authorizer have a comprehensive and well-publicized application process that includes realistic timelines, fair and transparent procedures, and guidance that clearly describes each stage of the process? To what degree is the authorizer's request for proposals clear, comprehensive, and aligned to its mission, vision, and organizational goals?		
2020 if it did not suspend its process.		
Deficiency: While the procedures for the evaluation of completed applications are fair and transparent, the procedures at the Intent to Apply stage are not because, in practice, they did not inform applicants of all of their rights and responsibilities or promptly notify applicants of denial. In Board Appeal No. 20-01, *Lima No'eau Career Academy v. State Public Charter School Commission*, the Board concluded that the Commission's Intent to Apply Packet acts "as part of the charter application," deeming a charter application as incomplete is a *de facto* denial, and "the Commission must issue notifications of denial to all applicant governing boards whose Intent to Apply Packets the Commission denies (*de facto* or otherwise)" (Appeal No. 20-01, p. 14-15). The 2020 RFP states, "Late or incomplete [Intent to Apply Packet] submissions will be rejected," but it does not contain any other information on how the Commission informs applicants about an "incomplete" determination or about the rights of applicants, such as the ability to the appeal to the Board, after the Commission deems the Intent to Apply Packet incomplete (PERF Attachment M-1, p. 18).	Mandatory	
Deficiency: The 2020 RFP does not clearly explain how the application process is conducted at the Intent to Apply stage. The process allows applicants to propose other school models that might not address the Commission's stated priority needs and states, "Prospective applicants not proposing schools that would meet a Priority Need must describe and cite evidence of other significant, documented educational needs that their school would meet in their targeted community, which would be a noteworthy contribution to Hawaii's public education system. The Commission will assess these alternative needs at the 'Intent to Apply' stage before inviting a prospective applicant to submit a full application." (PERF Attachment M-1, p. 8) However, the 2020 RFP does not explain how the Commission will "assess these alternative needs" and only states, "Commission staff will determine whether the applicant meets the requirements in HRS §302D- 13(b) to submit a charter application. Applicants will be notified on their eligibility to proceed with submitting a charter application" (PERF Attachment M-1, p. 14).	Mandatory	

Performance Measure B.1: Application Process, Timeline, and Request for Proposals To what degree does the authorizer have a comprehensive and well-publicized application process that includes realistic timelines, fair and transparent procedures, and guidance that clearly describes each stage of the process? To what degree is the authorizer's request for proposals clear, comprehensive, and aligned to its mission, vision, and organizational goals?		
Deficiency: While the application process in the 2020 RFP clearly explains how most of the evaluation stage is conducted after applicants submit their full applications, it is not clear about the "Hawaii school experts who will evaluate the applicant's capacity" (PERF Attachment M-1, p. 17, 23), particularly who makes up that group and how they are selected, their relationship to the evaluation team, and their responsibilities in the evaluation process.	Mandatory	
Deficiency: The Intent to Apply Packet in the 2020 RFP does not articulate comprehensive application questions to elicit the information needed for the rigorous evaluation of applicants' plans. In Board Appeal No. 21-01, *Lima No'eau Career Academy v. State Public Charter School Commission*, the Board concluded, "[T]he Commission's priority needs requirement is ambiguous, particularly in how it applies to the Intent to Apply Packet. The fault of this ambiguity lies with the Commission" (Appeal No. 21-01, p. 11). In this case, the Commission denied an applicant because its Intent to Apply Packet "lacked information in addressing the priority needs and did not describe or cite evidence of other significant, documented educational needs that [the applicant] would meet in [its] targeted community, which would be a noteworthy contribution to Hawaii's public education system and the information provided was inconsistent" (Appeal No. 21-01, p. 6). As summarized in the Board's appeal decision, "The Intent to Apply Packet form appears simply to require a brief description as to which of the Commission's priority needs, as stated in the RFP, the applicant meets, if any. It does not require the applicant to describe how it will meet the selected priority needs, presumably because that is the intent of the full application. [The applicant's] Intent to Apply Packet briefly described two priority needs using language identical to the priority needs stated in the RFP" (Appeal No. 21-01, p. 11).	Mandatory	

Performance Measure B.1: Application Process, Timeline, and Request for Proposals To what degree does the authorizer have a comprehensive and well-publicized application process that includes realistic timelines, fair and transparent procedures, and guidance that clearly describes each stage of the process? To what degree is the authorizer's request for proposals clear, comprehensive, and aligned to its mission, vision, and organizational goals?		
B.1.1 Opportunity: The Commission should put forth a plan and timeline for reopening the current application cycle, which it has suspended for over a year and a half, as soon as possible as some applicants in limbo risk losing funding awards. The timeline should not be dependent upon the availability of state funding for "new programs" (which was the original rationale for the suspension) because (1) it takes a significant amount of time for an approved applicant to even be eligible to receive state funding as a full-fledged charter school and (2) new charter schools are not new budgetary programs for which the State needs to find funds, as the funding for a new charter school is just a piece of a per-pupil funding "pie" made up of charter school and Department program funds. The per-pupil calculation across this figurative budget pie stays the same, regardless of the number of Department and charter schools, unless the total number of students served by the public schools as a whole (Department and charter schools) changes or the whole funding pie itself changes, neither of which have anything to do with a new charter school.	**X** Yes ☐ No*	
B.1.2 Opportunity: In addition to the alignment to an outdated strategic vision, it is unclear how the priority needs stated in the 2020 RFP align with the Commission's organizational goals. The Commission should realign its entire approach to the solicitation and review of new charter school applications to its revised strategic plan and the attached organizational goals and ensure that alignment is explicitly clear in the RFP.	**X** Yes ☐ No*	
B.1.3 Opportunity: With the recent statutory changes to HRS §302D-13, the Commission will need to reexamine its application process to see if changes are necessary to comply with law.	**X** Yes ☐ No*	

Performance Measure B.2: Approval Criteria for Charter School Applications To what degree does the authorizer have clear and comprehensive approval criteria that align with law and allow it to rigorously evaluate new charter school proposals?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: The approval criteria in the 2020 RFP do not clearly allow for rigorous evaluation of new charter school proposals. Each of the last three versions of the Commission's RFP state, "Within each section and subsection [of the Application Requirements and Criteria], specific criteria define the expectations for a response that 'Meets the Standard'" (PERF Attachment M-1, p. 25; PERF Attachment M-2, p. 26; PERF Attachment M-3, p. 26). Each subsection of the Application Requirements and Criteria in the 2016-2017 and 2018 RFPs starts with "An application that meets the standard for approval will have the following elements" and are subsequently followed by detailed application requirements. These detailed application requirements contain subjective descriptors (such as "clear," "reasonable," and "effective") denoting a level of expected quality and allowing these requirements to simultaneously serve as the approval criteria. Many, if not most, of these subjective descriptors appear to be absent from the 2020 RFP's Application Requirements and Criteria. For example, the 2018 RFP states, "An application that meets the standard for approval will have . . . A clear description of realistic and legally sound procedures for hiring and dismissing school personnel, including procedures for conducting criminal history record checks" (PERF Attachment M-2, p. 50). The 2020 RFP revised this same requirement to state, "Outline the school's procedures for hiring and dismissing school personnel, including conducting criminal history record checks" (PERF Attachment M-1, p. 49). The 2018 version of this requirement makes it clear that the procedures for hiring and dismissing school personnel need to be "realistic and legally sound" and provide the evaluation team criteria on which to base a quality judgement. The 2020 version of this requirement does not allow for any judgement of the quality of the procedures and therefore does not serve as a clear approval criterion. The 2020 RFP's Application Requirements and Criteria are full of many more examples of this issue. While Commission representatives explained that this change was intended to make the approval criteria clearer, measurable, and easier for applicants, it may actually have the opposite effect.	Mandatory	

Performance Measure B.2: Approval Criteria for Charter School Applications To what degree does the authorizer have clear and comprehensive approval criteria that align with law and allow it to rigorously evaluate new charter school proposals?		
Deficiency: While there are distinct questions or requirements for applicants who are existing school operators of proposed conversion charter schools (PERF Attachment M-1, p. 41), proposing to contract with education service or management providers (PERF Attachment M-1, p. 55-58), or proposing to operate virtual charter schools (PERF Attachment M-1, p. 59-61), distinct approval criteria for such applicants are vague, at best, or completely missing, at worst, and the issue described in the paragraph above applies here as well.	Mandatory	
Deficiency: Other than a distinct requirement for applicants proposing conversion charter schools, the 2020 RFP does not contain any distinct requirements or approval criteria for applicants who are other existing school operators.	Mandatory	

Performance Measure B.3: Evaluation and Decision-Making Process To what degree does the authorizer have clear and comprehensive evaluation process standards to ensure qualified internal and external evaluators rigorously evaluate new charter school proposals? To what degree did the authorizer's decisions and resulting actions align to its stated approval criteria and evaluation process standards?		
Finding	**Plan to be developed?**	**Projected date ready**

Performance Measure B.3: Evaluation and Decision-Making Process To what degree does the authorizer have clear and comprehensive evaluation process standards to ensure qualified internal and external evaluators rigorously evaluate new charter school proposals? To what degree did the authorizer's decisions and resulting actions align to its stated approval criteria and evaluation process standards?		
Deficiency: The evaluation process standards in the 2020 RFP do not require the Commission to provide applicants with its decision that clearly communicates specific reasons for approval or denial. The example of a letter informing an applicant of its denial demonstrates that this is also not a practice of the Commission, as the letter provides a vague reason for the denial, simply stating that "the application did not meet the standard of approval for the criteria detailed in the 2018 RFP" (PERF Attachment O, p. 832).	Mandatory	
B.3.1 Opportunity: While the Commission uses other due diligence in practice, it does not appear to be a formal part of the evaluation process other than a mention in the 2020 RFP of "due diligence" as additional information that evaluators can consider (PERF Attachment M-1, p. 25). Applicants, evaluators, and decision-makers should have a better sense of the type of due diligence to expect even if certain types of due diligence is based on situations or conditions.	**X** Yes ☐ No*	
B.3.2 Opportunity: Documenting the Commission's evaluator conflicts of interest practices in process documents provided to applicants and decision-makers (such as the RFP) would make it clear to applicants and decision makers that the application evaluation process is free of conflicts of interest.	**X** Yes ☐ No*	
B.3.3 Opportunity: While past evaluation teams have documented evidence to support whether the applicant meets the approval criteria (see PERF Attachment O, p. 659-695, for an example), this does not appear to be a documented evaluation process standard of practice. This should be a documented expectation for evaluators in whatever training materials are provided to evaluators, at a minimum.	**X** Yes ☐ No*	
B.3.4 Opportunity: The evaluation process standards in the 2020 RFP do not require the Commission to provide training to evaluators to ensure consistent evaluation standards and practices, observance of essential protocols, and fair treatment of applicants. While the Commission notes that the "Applications Specialist held a meeting with evaluators to go over standards and process for evaluations" during the 2018 application cycle (PERF, p. 35), training for evaluators is not formally required. The RFP should make it clear to applicants, evaluators, and decision-makers that training for evaluators is a required element of the evaluation process.	**X** Yes ☐ No*	

Performance Measure B.3: Evaluation and Decision-Making Process To what degree does the authorizer have clear and comprehensive evaluation process standards to ensure qualified internal and external evaluators rigorously evaluate new charter school proposals? To what degree did the authorizer's decisions and resulting actions align to its stated approval criteria and evaluation process standards?		
B.3.5 Opportunity: Once the Commission defines its vision of a high-quality charter school, it should align its approval criteria to that definition.	**X** Yes ☐ No*	

Performance Measure B.4: Pre-Opening Charter School Process To what degree does the authorizer have clear and comprehensive pre-opening processes and criteria to determine the readiness of a pre opening charter school to commence operations on a reasonable timeline?		
Finding	**Plan to be developed?**	**Projected date ready**
B.4.1. Opportunity: It would be helpful to identify the Commission positions responsible for each area of the pre-opening process and their duties related to the pre-opening process.	**X** Yes ☐No*	
B.4.2 Opportunity: Because the Commission has not implemented a pre-opening process in the past two years and it does not have a general pre-opening process and criteria to judge, it does not appear that the Commission is eligible for consideration of an "exemplary" rating. The Commission should consider establishing a pre-opening process and criteria template that it periodically updates and makes available to prospective charter applicants. PIG response: The pre-opening assurances, process and requirements have always been publicly posted as part of the Commission's agendas and submittals. The Commission will make these documents part of its webpage on applicants for new charter schools.	**X** Yes ☐No*	

Performance Contracting

Performance Measure C.1: Charter Contract Terms, Negotiation, and Execution To what degree does the authorizer negotiate and execute charter contracts that clearly define material terms and rights and responsibilities of the school and the authorizer?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: Charter school representatives did not verify that there is mutual understanding and acceptance of the material terms of the charter contract, and the level of understanding and acceptance of the charter contract by charter schools appears to be insufficient. In a survey of charter school leaders, only 25% of respondents somewhat agreed or strongly agreed that the Commission "negotiates and executes sound charter contracts with each approved charter applicant and with existing public charter schools," the lowest rate of agreement of all survey questions asked. While the Commission should be commended for the degree of effort it put forth to engage with school representatives during the process to revise the charter contract to Charter Contract 4.0, both the survey and interviews with school representatives indicate that mutual understanding still was not achieved. Notably, the Commission did not appear to respond to the specific comments received during its "working sessions" in January, February, and March 2021, the final round of feedback, which may have left the impression on some that the Commission did not consider the feedback. Additionally, the deputy attorney general for the charter schools reviewed a draft of Charter Contract 4.0, at the request of some of the schools, and offered comments to the Commission's deputy attorney general. It appears the Commission accepted only a few comments without a clear indication to the schools why it did not accept the other comments offered by their legal counsel. Neither statute nor national standards and best practices prevent an authorizer from using a boilerplate charter contract for the schools within its portfolio, and the Commission can use the feedback session approach as its method for contract negotiation. However, any contract negotiation process must have clear two-way communication throughout to ensure the parties mutually understand and accept (with a clear understanding that acceptance is not the same as agreement) the material terms of the charter contract. The Commission did not appear to maintain clear two-way communication throughout the process.	Mandatory	

Performance Measure C.1: Charter Contract Terms, Negotiation, and Execution To what degree does the authorizer negotiate and execute charter contracts that clearly define material terms and rights and responsibilities of the school and the authorizer?		
Deficiency: It is not clear whether changes or modifications to school plans or operations that are immaterial or otherwise not mentioned in the charter contract require a contract amendment. Section 19.2 of Charter Contract 4.0 states, in pertinent part, "Changes in operation that require the School to obtain an amendment to this Charter Contract include but are not limited to the following: (a). Any material term in Article II of this Charter Contract (Exhibit "A"); (b). Any School location changes, such as relocation of site or adding or terminating sites; (c). Any School management arrangement(s), such as intention to hire or terminate a ESP; and (d). Any admissions or enrollment changes to policies or procedures." (PERF Attachment R-3, p. 53) The charter contract provides a non-exhaustive list of changes or modifications requiring a contract amendment, but it does not describe any types of changes or modifications the school can make without a contract amendment other than changes in "textbooks, formative assessments or other instructional resources" (PERF Attachment R-3, p. 19). Even changes in curriculum require a contract amendment if it results in "any material changes to the Charter Contract such as the School's mission and/or vision" (PERF Attachment R-3, p. 19), and it is unclear why this provision is necessary because a school's mission and vision should drive its curriculum, not the other way around. Further, it is unclear why a school needs to obtain a contract amendment to make changes to its admissions policy when the policy itself is not a material term of, or even an attachment to, the charter contract. It is unclear what part of the contract would be amended in the instance of a change to an admission policy.	Mandatory	
Deficiency: Charter Contract 4.0 does not clearly state and respect the autonomies to which schools are entitled. While there is some acknowledgement of the school's authority over educational programming, previous iterations of the charter contract acknowledged this autonomy more explicitly. Charter Contract 2.0 and 3.0 both stated, "[T]he School shall have control over and responsibility for the design and delivery of the educational program" (PERF Attachment R-1, p. 2; PERF Attachment R-2, p. 13). The provisions that the Commission points to in its Performance Evaluation Response Form state the responsibilities of the governing board but do not explicitly state the school's authority over educational programming, staffing, budgeting, and scheduling with the exception of a limited regarding the school's authority over its curricular and instructional approach (PERF, p. 57- 60).	Mandatory	

Performance Measure C.1: Charter Contract Terms, Negotiation, and Execution To what degree does the authorizer negotiate and execute charter contracts that clearly define material terms and rights and responsibilities of the school and the authorizer?		
Deficiency: While Charter Contract 4.0 clearly states most of the responsibilities of the school and the authorizer in the event of school closures, it is not entirely clear on the responsibilities of the school in the event of financial insolvency. In the event of financial insolvency, the school is required to "comply with the Commission's closure policies and protocol" (PERF Attachment R-3, p. 50-51). However, this does not appear to be a requirement for other kinds of school closures. Instead, in the event of other school closures, section 18.13 states, in pertinent part, "The Governing Board and School personnel shall cooperate fully with the dissolution of the affairs of the School." (PERF Attachment R-3, p. 50-51)	Mandatory	
Deficiency: The Commission does not have additional contractual provisions for any school that contracts with an external (third-party) provider for education design and operation or management to ensure rigorous, independent contract oversight by the governing board and the school's financial independence from the external provider. Commission representatives noted that no schools currently contract with external providers for this purpose. During an interview with school representatives, a representative described a situation where a school wanted to contract with an external provider, but the Commission required a review of the contract with the provider. Even though none of the schools in the Commission's portfolio currently contract with external providers, the absence of contractual provisions to address such contracts creates confusion, at best, when the situation does arise and, at worst, could lead to a problematic relationship between the school and the external provider.	Mandatory	
C.1.1 Opportunity: The Commission granted previous iterations of the charter contract on varying terms from one year to five years in length. Only recently has the Commission granted new or renewed charter contracts all with a five-year term. NACSA Standards state that a quality authorizer "grants charter contracts for an initial term of five operating years or longer only with periodic high-stakes reviews every five years." The Commission has not met this standard for at least the last three years and is therefore ineligible for an "exemplary" rating for this performance measure.	☐ Yes **X** No*	

Performance Measure C.2: Charter School Performance Standards To what degree does the authorizer execute charter contracts with clear, measurable, and attainable performance standards?		
Finding	**Plan to be developed?**	**Projected date ready**
C.2.1 Opportunity: The way Charter Contract 4.0 presents how the scoring works in the academic performance framework is confusing. The standardized assessments rubric contains more than ten described measures with each measure that "meets/exceeds" being worth seven points (PERF Attachment R-3, p. 63-64), and it was unclear how the scoring on these measures would add up to the maximum of 70 points until Commission representatives explained further. As currently presented in Charter Contract 4.0, there is room for interpretation as to what the Commission's academic performance expectations might be. At a minimum, the formatting of the academic performance framework needs to be improved.	☐Yes **X** No*	
C.2.2 Opportunity: Under the academic performance framework in Charter Contract 4.0, it is possible for a school to reach the minimum score required for charter contract renewal without meeting any of the expectations aligned with Strive HI. This is less of an issue if this aligns with the Commission's vision of a high-quality school, but if it does not, the Commission will need to change its academic performance framework to align with this vision. The Commission should review the findings in the 2017 NACSA Report relating to holding schools accountable for academic performance (PERF Attachment C-2, p. 11-12) before the Commission determines what a high-quality school looks like and changes its academic performance framework.	☐Yes **X** No*	
C.2.3 Opportunity: While the academic performance framework identifies a postsecondary readiness measure under the standardized assessments indicator in the academic performance framework, it is unclear and it is questionable as to whether it is an appropriate measure of postsecondary readiness, as required by HRS §302D 16(a)(6). The academic performance framework describes this measure as the "percentage of students reading at, or near grade level, and/or promotion rate, depending on grade level," and it applies only to grades 3, 8, and 9 (PERF Attachment R-3, p. 64). Commission representatives explained that the Department defined these measures as postsecondary measures for Strive HI and pointed to a technical document, entitled "2018-19 Strive HI Measures and Calculations: Technical Guide," as supposed evidence. However, the document does not define any measures as measures of postsecondary readiness. While it may be appropriate to use literacy and promotion rate as postsecondary readiness indicators for elementary and middle school levels, these are	☐Yes **X** No*	

Performance Measure C.2: Charter School Performance Standards To what degree does the authorizer execute charter contracts with clear, measurable, and attainable performance standards?		
not indicators typically used to measure postsecondary readiness at the high school level. The Commission needs to reassess how it will measure postsecondary readiness for the high school level.		
C.2.4 Opportunity: While the mission aligned initiative indicators attempt to emphasize autonomy in a measurable way, they could use some clarification. The academic performance framework needs to be clearer about the data sources for these indicators, and considering their qualitative nature, the framework needs to be more specific as to how these indicators will be judged.	**X** Yes ☐ No*	
C.2.5 Opportunity: Many of the data sources that form the evidence base for the performance frameworks are not explicitly defined or clear in the performance frameworks or elsewhere in Charter Contract 4.0 and require certain assumptions. The sources of academic data that will form the evidence base for ongoing and renewal evaluation are not defined. Indicator 2 in the academic performance framework contains "Strive HI" in the title of the indicator (PERF Attachment R-3, p. 63), but Strive HI is not mentioned anywhere else in the charter contract. Further, it is not entirely clear what the data sources for the other indicators in the academic performance framework are.	**X** Yes ☐ No*	
C.2.6 Opportunity: The sources of organizational data that will form the evidence base for ongoing and renewal evaluation are not entirely clear. While the "Comments" column in the table in the organizational performance framework appears to generally define the data sources for each of the standards, it is not explicitly clear that these "comments" actually define the data sources, and most of the comments lack any specificity (PERF Attachment R-3, p. 69-77).	**X** Yes ☐ No*	
C.2.7 Opportunity: The financial performance framework would also be clearer if it explicitly defined the sources of financial data that will form the evidence base for ongoing and renewal evaluation. The Commission explained that the charter contract "requires quarterly school self-reported financial statements, followed by an annual audit from a licensed auditor" (PERF, p. 105). The assumption is that the financial statements and annual audit act as sources of financial data for the financial performance standards, but neither the charter contract nor the financial performance framework explicitly define them as such. The Commission also noted that it reviews and monitors documents submitted for reimbursement by federal funds and uses the processing of payroll and the availability of funds in school accounts as	☐ Yes **X** No*	

Performance Measure C.2: Charter School Performance Standards To what degree does the authorizer execute charter contracts with clear, measurable, and attainable performance standards?		
additional information sources of financial data (PERF, p. 105-106). Again, neither the charter contract nor the financial performance framework define these as sources of financial data for the financial performance standards.		

Ongoing Oversight and Evaluation

Performance Measure D.1: Process for Ongoing Oversight of Charter Schools To what degree does the authorizer have and implement a comprehensive oversight and monitoring system as defined by the charter contract?		
Finding	**Plan to be developed?**	**Projected date ready**
D.1.1 Opportunity: Implementation of the Commission's oversight and monitoring, consistent with its stated processes, could not be verified externally with consistent responses. Based on the interviews with school representatives, it is not clear that all schools have a similar experience with the Commission's oversight and monitoring system. Additionally, while a majority (58.3%) of charter school leaders who responded to the survey strongly agreed or somewhat agreed that the Commission "monitors, in accordance with charter contract terms, the performance and legal compliance of public charter schools," a substantial number either had no strong opinion, somewhat disagreed, or strongly disagreed (41.7% altogether).	**X** Yes ☐ No*	

Performance Measure D.1: Process for Ongoing Oversight of Charter Schools To what degree does the authorizer have and implement a comprehensive oversight and monitoring system as defined by the charter contract?		
D.1.2 Opportunity: The Commission should document its monitoring system through formal processes and procedures. The charter contract describes some elements of the oversight and monitoring system, but it does not comprehensively describe how all the elements work together or explain certain details of the system (such as how often the Commission conducts onsite monitoring or how the Commission determines what to monitor and in what manner). Documented processes and procedures for monitoring could provide clarity to schools and help bring more consistency to their experiences with the oversight and monitoring system.	**X** Yes ☐ No*	
D.1.3 Opportunity: Through systematic monitoring processes and procedures, the Commission should regularly monitor every school with both desk and on-site monitoring. The Commission should set a monitoring schedule that describes the kind of monitoring and makes the frequency of school visits clear.	**X** Yes ☐ No*	
D.1.4 Opportunity: The Commission should consider tracking its monitoring work output (such as the number of site visits and desk reviews, the nature of any visits and reviews, and the number and type of findings resulting from such visits and reviews) and the time and resources spent on monitoring. This will help the Commission better understand the resources it uses on monitoring, areas of monitoring that may need to be reduced or expanded, and additional resources that may be required for monitoring.	**X** Yes ☐ No*	
D.1.5 Opportunity: The Commission should take a more systemic approach to academic performance monitoring. While the Commission issues annual performance reports that summarizes each school's academic performance as defined by the academic performance framework, Commission representatives explained that the Commission takes a "hands off" approach to academic performance monitoring. Considering how critical the data and resulting scores in the academic performance framework are to renewal decisions, the Commission should consider at least presenting the annual academic performance results to governing boards to ensure the governing boards understand how their schools are performing and whether they are on track to hit the academic performance targets by the time of contract renewal.	**X** Yes ☐ No*	

Performance Measure D.2: Protecting School Autonomy To what degree does the authorizer respect, preserve, and support the essential autonomies of the portfolio of charter schools?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: Provisions within the charter contract related to school autonomy exist but do not clearly ensure school autonomy and recognize the school's authority over the school's day-to-day operations and decisions that are clearly within the school's purview. While there is some acknowledgement of the school's authority over educational programming, previous iterations of the charter contract acknowledged this autonomy more explicitly. Charter Contract 2.0 and 3.0 both stated, "[T]he School shall have control over and responsibility for the design and delivery of the educational program" (PERF Attachment R-1, p. 2; PERF Attachment R-2, p. 13). The provisions that the Commission points to in its Performance Evaluation Response Form state the responsibilities of the governing board but do not explicitly state the school's authority over educational programming, staffing, budgeting, and scheduling with the exception of a limited provision regarding the school's authority over its curricular and instructional approach (PERF, p. 129-130). The Commission explains, "[H]ow the school operates their school is not defined in the contract and is left to the school's discretion and autonomy" (PERF, p. 132). However, avoiding infringements upon a school's authority is not the same as explicitly recognizing the school's authority through contractual provisions.	Mandatory	
Deficiency: An issue raised by school representatives provides another example of the lack of recognition of schools' statutorily granted autonomy. Charter Contract 4.0 includes definitions for "governing board" and "public charter school" that use most of the same language from the statutory definitions of the same terms (PERF Attachment R-3, p. 13-14). However, virtual education is explicitly excluded from these definitions even though it is included in both statutory definitions as an area of "independent authority" (HRS §302D-1). The decision to exclude virtual education from the definitions and as an area of school authority appears to have been intentional, as the charter contract excludes this statutory language while at the same time using other statutory language. While the contractual exclusion does not remove schools' statutory authority over virtual education, it comes across as the Commission actively ignoring this area of autonomy.	Mandatory	

Performance Measure D.2: Protecting School Autonomy To what degree does the authorizer respect, preserve, and support the essential autonomies of the portfolio of charter schools?		
Deficiency: It is unclear how the one documented example that the Commission provided aligns with the school autonomy provisions in the charter contract. In the example, the Commission "temporarily authorize[d] all thirty-seven public charter schools to provide distance, virtual, or other alternative mode of instruction or education in response to the Coronavirus (COVID-19) threat" (PERF Attachment U, p. 3). The Commission apparently needed to grant this temporary authorization because the charter contract prohibits "distance, virtual, or other alternative mode of instruction or education" without approval from the Commission, so it is not clear how this example of an exemption *from* the charter contract aligns *with* the charter contract.	Mandatory	
D.2.1 Opportunity: While the Commission did not clearly demonstrate how it minimized administrative burden on its portfolio of charter schools without compromising public interest, as it was unable to provide a documented example, the Commission should continue to annually review its compliance tasks and work with the Department on methods for data collection (PERF, p. 132). The Commission may want to consider finding out directly from charter schools the most onerous parts of its oversight and monitoring system and exploring ways to reduce the administrative burden in those areas.	**X** Yes ☐ No*	
D.2.2 Opportunity: As noted in Performance Measure D.1, implementation of the Commission's oversight and monitoring, consistent with its stated processes, could not be verified externally with consistent responses.	**X** Yes ☐ No*	
D.2.3 Opportunity: The Commission should review NACSA's standards related to respecting school autonomy to ensure its charter contracts, processes, and practices align. It may be beneficial to even consult with NACSA in this area. The Commission could also consider working with the schools within its portfolio on a common understanding of what "autonomy" means as a part of charter contract negotiations and/or the Commission's strategic planning.	☐ Yes **X** No*	

Performance Measure D.3: Standards and Processes for Intervention and Corrective Action To what degree does the authorizer have clear and comprehensive standards and processes to address intervention and corrective action?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: When a Notice of Deficiency is needed, the Commission has the latitude to go beyond simply identifying what the school must remedy and can actually prescribe solutions to the school. The charter contract states that a Notice of Deficiency "may include prescriptive, specific action plans and conditions for the School" (PERF Attachment R-3, p. 47). When asked how the Commission reconciles this contract provision with NACSA Standards, which state a quality authorizer "engages in intervention strategies that clearly preserve school autonomy and responsibility [by] identifying what the school must remedy without prescribing solutions," Commission representatives explained that most authorizers in jurisdictions outside of Hawaii do not need to "enforce state or federal requirements," and when a school fails to comply, the Commission is "tasked by [HRS Chapter 302D] to interject [itself] and ensure that compliance." The basis for this justification is factually inaccurate. Most, if not all, authorizers across the nation are responsible for holding charter schools accountable to matters of legal compliance, and the Commission is no different. Further, state statute does not require the Commission to "interject" when there is an issue of legal compliance. The Commission must ensure compliance, and it can do so using its performance frameworks and an intervention process that identifies what the school must remedy without prescribing solutions. The explanation from Commission representatives during the interviews did not provide justification for the contract provision and raised some concerns about their understanding of the fundamental tenets of charter schooling: accountability and autonomy.	Mandatory	
Deficiency: Neither the charter contract, Notice of Concern forms, or documented examples indicate that the intervention process requires the Commission to give timely notice of contract violations or performance deficiencies. One of the documented examples shows that the Commission did not give a formal notice of contract violations for a failed fire inspection through a Notice of Concern until almost a year and a half after the fire inspection (PERF Attachment V-2).	Mandatory	
Deficiency: It is not clear whether the intervention process allows schools reasonable time and opportunity for remediation in non-emergency situations. The most recent documented example provided by the Commission gives the school two weeks to provide what appears to be reports related to a fire inspection (PERF Attachment	Mandatory	

Performance Measure D.3: Standards and Processes for Intervention and Corrective Action To what degree does the authorizer have clear and comprehensive standards and processes to address intervention and corrective action?		
V-2, p. 10-11), but it is unclear whether that is a reasonable expectation, especially since it is unclear whether the school would need to schedule and successfully pass a fire inspection within that window. Nothing else in the charter contract or other documents indicate that the Commission is required to provide a reasonable time and opportunity for remediation in non-emergency situations.		
D.3.1 Opportunity: Section 17.9 of Charter Contract 4.0 is entitled "Notice of Deficiency and Notice of Warning" (PERF Attachment R-3, p. 5, 47). However, a Notice of Warning is not defined or mentioned anywhere else in the charter contract. This appears to be a residual term from previous contract and intervention process iterations and should be removed for clarity.	**X** Yes ☐ No*	

Revocation and Renewal Decision-Making

Performance Measure E.1: Charter Contract Renewal Process and Performance Reports To what degree does the authorizer have a clear, comprehensive, fair, and transparent process for charter contract renewal?		
Finding	**Plan to be developed?**	**Projected date ready**

Performance Measure E.1: Charter Contract Renewal Process and Performance Reports To what degree does the authorizer have a clear, comprehensive, fair, and transparent process for charter contract renewal?		
Deficiency: The most recently used criteria for charter renewal were not consistent with the charter contract. The renewal process described the results for schools that did not receive Notices of Deficiency during the charter contract term depending on whether the school meets performance targets, partially meets performance targets, does not meet performance targets, or has major compliance issues (PERF Attachment W-1, p. 2). However, Charter Contract 3.0, which is the charter contract version applicable to this renewal process, does not provide these criteria, and simply states, "If the School did not receive a Notice of Deficiency during the contract period [, it] will submit a renewal application for a five-year contract after receiving the Final Performance Report." (PERF Attachment R-2, p. 58) This statement makes it seem like a school that did not receive a Notice of Deficiency during the contract term would receive a new five-year charter contract, but that is not the case in the renewal process.	Mandatory	
Deficiency: The most recent performance report did not summarize all aspects of the school's performance, state all of the Commission's summative findings concerning the school's performance, or state the school's prospects for renewal. The performance report did not summarize the school's performance on the value-added targets in the academic performance framework or state the Commission's findings of the school's performance on those measures (PERF Attachment W-1, p. 6-8). The performance report also lacked any statement or indication of the school's prospects for renewal based on the summative findings as compared to the renewal criteria.	Mandatory	
Deficiency: In the most recent renewal process, the notifications to each school of the Commission's renewal decisions did not include written explanations of the reasons for the decisions. The notifications stated the Commission's decision to award a new charter contract and the various conditions of the new contract, but they did not include an explanation as to why the Commission was awarding a new contract with the specified term length and renewal conditions (PERF Attachment W-3).	Mandatory	
E.1.1 Opportunity: The most recent process for contract renewal included communication of renewal decisions to the school community and public, but that communication did not appear to be prompt or far-reaching enough. The Commission communicated its renewal decisions through its monthly e-newsletter (PERF Attachment W-4). The communication was not prompt, as the decisions were made on January 10, 2020 but communicated through a February 2020 newsletter. Further, it is unlikely that the communication broadly	☐Yes **X** No*	

Performance Measure E.1: Charter Contract Renewal Process and Performance Reports To what degree does the authorizer have a clear, comprehensive, fair, and transparent process for charter contract renewal?		
reached the relevant school communities or the public, especially when it was contained in a blurb in a general newsletter rather than targeted through more intentional outreach or communication.		
E.1.2 Opportunity: The Commission should avoid implementing a renewal process that could potentially attempt to remove the rights of a school to appeal to the Board. In January 2020, the Commission approved charter contract renewal for some schools with a condition that stated, "Should the school not meet this condition, the school shall surrender its charter at the end of the contract term (fifth year)" (see Yvonne Lau's memorandum to John Kim, dated June 7, 2021, on an agenda item entitled "Action on Renewal of Charter Contract Condition regarding Complex-Like Academic Measure for Hakipu'u Academy, Hālau Kū Māna Public Charter School, Kamaile Academy Public Charter School, Ke Ana La'ahana Public Charter School, Kua o ka Lā New Century Public Charter School, Kona Pacific Public Charter School, Laupāhoehoe Community Public Charter School, Nā Wai Ola Public Charter School, and Waimea Middle Public Conversion Charter School"). While Commission representatives explained that these conditions are no longer applicable, the Commission should not be requiring schools to accept charter contracts with any condition that essentially allows the Commission to terminate the charter contract without revocation or nonrenewal (in this instance, via "surrender"). Although unclear, the result could be an apparent removal of appeal rights or, at the very least, much messier appeal proceedings.	☐ Yes **X** No*	
E.1.3 Opportunity: The Commission should consider initiating the renewal process as early as possible in a schools final year of its charter contract and issuing a final renewal decision as quickly as possible. Giving a school as much advance notice as possible on renewal decisions will provide the Commission and the governing board to discuss and come to a mutual understanding and acceptance of the next charter contract before its execution. An earlier timeline would also help with appeal process timing, if necessary.	☐ Yes **X** No*	

Performance Measure E.2: Charter Contract Renewal or Revocation Decisions To what degree do the authorizer's renewal and revocation decisions align to its stated performance standards?		
Finding	**Plan to be developed?**	**Projected date ready**
Deficiency: The Commission granted renewals to schools that did not meet the academic performance standards. While the Commission followed its renewal criteria, the criteria allowed schools who only partially met performance standards to receive new five-year charter contracts with conditions and allowed schools who did not meet performance standards to receive a one-year contract extension (PERF Attachment W-1, p. 2). For example, the Commission granted at least one charter school that did not meet any of its student academic outcome targets in the academic performance framework with a five-year contract with conditions to improve its academic performance (see Commission's general business meeting minutes of January 10, 2020), and it is not clear that the Commission "[g]round[ed] its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract," pursuant to HRS §302D-18(f)(1). Commission representatives even acknowledged that the academic performance data for some of these schools fell below expectations, but they noted that they wanted to give these schools a chance to improve because it felt uncomfortable not renewing their charter contracts. This implies that the Commission may have made this renewal decision "solely on promises of future improvement" (as described in the NACSA Standards on renewal decisions and the indicator specifications of this Performance Measure). When asked, Commission representatives explained that while promises of future improvement were one factor in the decision to renew, the Commission considered other factors, such as the capacity of the governing board and the school's financial performance, noting that there was discomfort with having an "academic trip wire." However, grounding renewal decisions in evidence of only the school's organizational and financial performance and promises of future improvement in academic performance does not align with NACSA Standards or the spirit and intent of HRS Chapter 302D. A critical role of an authorizer is to hold charter schools accountable to rigorous academic performance expectations, not just organizational and financial expectations. It is evident that many of findings in the 2017 NACSA Report relating to holding schools accountable for academic performance, which it rated as an area needing improvement, are still present today (PERF	Mandatory	

Performance Measure E.2: Charter Contract Renewal or Revocation Decisions To what degree do the authorizer's renewal and revocation decisions align to its stated performance standards?		
Attachment C-2, p. 11-12). One of the key findings from the report is that the Commission needs to "[s]et a higher bar for renewal and make the difficult decision to non-renew or revoke the charters of schools that have chronically failed to make sufficient improvement or progress" (PERF Attachment C-2, p. 9). To date, the Commission has still never closed a school for failing to meet academic performance expectations even though several schools fall into that category. The story of the Commission's academic performance accountability woes appears to be either setting the academic performance bar so low that all schools can clear it or setting a higher bar but not taking appropriate action when schools fail to meet it.		
E.2.1 Opportunity: For the schools that did not meet the academic performance expectations but the Commission still renewed, Commission representatives explained that the Commission placed unique academic performance expectations on each of these schools, such as specific targets benchmarked to the complex area or like demographics, as a condition of the renewal. These conditions were separate from the expectations contained in the charter contract and the performance frameworks. While these conditions appear to be moot according to the Commission representatives, the Commission should avoid creating renewal or performance expectations that are not explicitly captured in the performance frameworks to comply with HRS §302D-18(f)(1).	☐ Yes **X** No*	
E.2.2 Opportunity: It is not clear whether the Commission "[p]rovide[s] a public report summarizing the evidence and basis for each [renewal] decision," pursuant to HRS §302D-18(f)(3). It would be useful to produce this kind of report immediately following a renewal decision as well as including the information in the Commission's annual report.	☐ Yes **X** No*	
E.2.3 Opportunity: The Commission should consider the feasibility of compressing the revocation process. When the Commission seriously considers the closure of a school, it should take final action as quickly as possible to minimize the costs to students, families, and the State.	☐ Yes **X** No*	

Performance Measure E.3: School Closure Protocol To what degree does the authorizer have a closure protocol that is clear and comprehensive?		
Finding	**Plan to be developed?**	**Projected date ready**
E.3.1 Opportunity: The Commission should consider a review of its closure protocols with the intention of compressing the timeline wherever possible.	☐Yes **X** No*	
E.3.2 Opportunity: The Commission should consider developing a closure protocol for a charter school whose contract is not renewed with more precise timelines that are tied to the renewal process timeline and based on the notification of non-renewal.	**X** Yes ☐No*	